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HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

— Second —

1966—68

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

(No. 1-10)

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act.

TUESDAY, FEBRUARY 22, 1966

TUESDAY, MAY 17, 1966

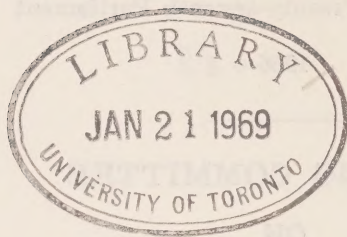
— Jan. 26—March 19

WITNESSES:

From the Department of Labour: The Honourable John R. Nicholson,
Minister; Mr. George Haythorne, Deputy Minister.

From the Canadian Construction Association: Mr. P. Stevens, Director
of Labour Relations.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966



STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

	and	
Mr. Barnett,	¹ Mr. Knowles,	Mr. Muir (<i>Cape Breton</i>
Mr. Duquet,	Mr. Lefebvre,	<i>North and Victoria</i>),
Mr. Émard,	Mr. MacInnis (<i>Cape</i>	Mr. Racine,
Mr. Gordon,	<i>Breton South</i>),	Mr. Régimbal,
Mr. Gray,	Mr. Mackasey,	Mr. Reid,
Mr. Guay,	Mr. McCleave,	Mr. Ricard,
Mr. Hymmen,	Mr. McKinley,	Mr. Skoreyko,
Mr. Johnston,	Mr. Morison,	² Mr. Stefanson—(24).

¹Replaced by Mr. Orlikow on May 16, 1966.

²Replaced by Mr. Fulton on February 24, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

MONDAY, February 7, 1966.

Resolved,—That the following Members do compose the Standing Committee on Labour and Employment:

Messrs.

Barnett,	Knowles,	Muir (<i>Cape Breton North and Victoria</i>),
Duquet,	Lachance,	Racine,
Émard,	Lefebvre,	Régimbal,
Faulkner,	MacInnis (<i>Cape Breton South</i>),	Reid,
Gordon,	Mackasey,	Ricard,
Gray,	McCleave,	Skoreyko,
Guay,	McKinley,	Stefanson—(24).
Hymmen,	Morison,	
Johnston,		

THURSDAY, February 24, 1966.

Ordered,—That the name of Mr. Fulton be substituted for that of Mr. Stefanson on the Standing Committee on Labour and Employment.

MONDAY, May 9, 1966.

Ordered,—That Bill C-2, An Act to amend the Fair Wages and Hours of Labour Act be referred to the Standing Committee on Labour and Employment.

MONDAY, May 16, 1966.

Ordered,—That the name of Mr. Orlikow be substituted for that of Mr. Knowles on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, February 22, 1966.

(1)

The Standing Committee on Labour and Employment met this day at 10.05 a.m., for organization purposes.

Members present: Messrs. Barnett, Doucet, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Lefebvre, McCleave, McKinley, Morison, Régimbal—(15).

The Clerk attending, and having called for nominations, Mr. Morison moved, seconded by Mr. Émard, that Mr. Lachance be Chairman of the Committee.

There being no other nominations, Mr. Lachance was declared elected as Chairman.

Mr. Lachance thanked the Committee for the honour conferred on him.

On motion of Mr. Émard, seconded by Mr. Gray, Mr. Faulkner was elected Vice-Chairman.

On motion of Mr. McCleave, seconded by Mr. Faulkner,

Resolved,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and four members to be named by him, be appointed.

At 10.15 a.m., the Committee adjourned to the call of the Chair.

M. Slack,

Acting Clerk of the Committee.

TUESDAY, May 17, 1966.

(2)

The Standing Committee on Labour and Employment met this day at 9.45 a.m. The Chairman, Mr. Lachance, presided.

Member present: Messrs. Barnett, Duquet, Émard, Faulkner, Gray, Hummen, Johnston, Lachance, Lefebvre, Mackasey, McCleave, Muir (*Cape Breton North and Victoria*), Orlikow, Régimbal, Ricard (15).

In attendance: *From the Department of Labour:* The Honourable John R. Nicholson, Minister of Labour; Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Mr. H. Johnston, Director of Labour Standards Branch; Miss Edith Lorentson, Director of Legislation; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

From the Association of International Representatives of Building Construction Trades: Mr. John D. Carroll, International Representative of the Boilermakers.

The Chairman announced the names of the members of the Subcommittee on Agenda and Procedure to act with the Chairman: Messrs. Barnett, Faulkner, Johnston, Régimbal.

On motion of Mr. Lefebvre, seconded by Mr. Duquet,

Agreed—That the Committee print from day to day 1,000 copies in English and 500 copies in French of its Minutes of Proceedings and Evidence.

The Clerk read the *First Report of the Subcommittee on Agenda and Procedure* which was as follows:

“Your Subcommittee met on Wednesday, May 11, 1966.

Your Subcommittee recommends:

1. That the Minister of Labour, with such officials from his Department as he deems necessary, appear at the first meeting to make an introductory statement.

2. That the Committee entertain requests from witnesses to appear, and that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request, be the first witness.

3. That the Committee hold meetings Tuesdays, at 11.00 a.m.”

On motion of Mr. Duquet, seconded by Mr. Émard,

Agreed—That the First Report of the Subcommittee on Agenda and Procedure be adopted as read.

The Clerk read the *Orders of Reference*.

The Chairman called Clause 1 of Bill C-2.

The Chairman introduced the Honourable John R. Nicholson who in turn introduced the various officials from the Department.

The Minister then made his statement, followed by questioning by the Committee.

On motion of Mr. Orlikow, seconded by Mr. Régimbal,

Agreed—That the *Fair Wages and Hours of Labour Regulations* (Appendix 1), and the *Canada Labour (Standards) Code* (Appendix 2) be appended to today's proceedings.

The Chairman addressed a question to Mr. Stevens concerning his date of appearance before the Committee.

At 11.05 a.m., the questioning of the departmental officials continuing, on motion of Mr. Faulkner, seconded by Mr. Duquet,

Agreed—That the Committee adjourn until Thursday, May 19, 1966, at 11.00 o'clock a.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

TUESDAY, May 17, 1966.

● (9:45 a.m.)

The CHAIRMAN: Good morning, gentlemen. I understand we have a quorum now.

May I introduce the Minister of Labour, the Hon. John Nicholson. We have, as Clerk of our Committee, Mr. Ray.

Following our first meeting of the organization committee, I have been asked to form a steering committee. I have, after consultation with the different parties, the pleasure to announce that the steering committee is formed of the Chairman of the Committee, the Vice Chairman, Mr. Faulkner, Mr. Régimbal, Mr. Barnett and Mr. Johnston.

The subcommittee on Agenda and Procedure met last Wednesday and, with your permission, I will ask our clerk to read the suggestions which the subcommittee would like to present to you.

The CLERK OF THE COMMITTEE: The Subcommittee on Agenda and Procedure has the honour to present its first report. Your Subcommittee recommends:

1. That the Minister of Labour, with such officials from his Department as he deems necessary, appear at the first meeting to make an introductory statement.

2. That the Committee entertain requests from witnesses to appear, and that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request, be the first witness.

3. That the Committee hold meetings Tuesdays, at 11:00 a.m.

Respectfully, Georges Lachance, Chairman.

The CHAIRMAN: Is this report concurred in by the Committee, or would you have any amendment to this about checking on the degree of overlap between this Committee and others which might meet at eleven o'clock? I know there is an overlap of membership.

At the steering committee we had some discussion about it and it has been suggested that we should try to hold future meetings of the Committee every Tuesday until the bill, which has been referred to the Committee for study, has been completed. I have been able to get the date for next Tuesday at eleven o'clock.

Mr. GRAY: I would just make this suggestion, for the further consideration of the steering committee, that it might be easier to continue to get the good attendance we have today if some attention is given to the degree of overlap of membership with other committees that I know are going to be meeting at that same time.

The CHAIRMAN: As you know, Mr. Gray, we have some difficulty trying to arrange dates and times which would be suitable for all members.

Mr. GRAY: I do not want to start a discussion here, because we all want to start our work on this Bill. I am sure the Minister is ready with a statement. I would just make this point: You may find, on further consideration, that it will assist the work of the Committee and save the time of the officials if it is looked into. It may be that, as a test, what happens when you have your next meeting will demonstrate what I am getting at.

Mr. BARNETT: Mr. Chairman, may I just point out, as a member of the other steering committee that brought in this recommendation, that in passing that particular item in regard to the time of the Committee meeting, it was understood, I believe, in the steering committee, that it was subject to allowing latitude to the Chairman and the Committee to arrange the Committee in such a way that it would be co-ordinated with other meetings as far as possible.

This was an expression of our feeling that we should try and arrange a specific time which would give this Committee some priority, if this could be done.

The CHAIRMAN: As it is now, and as you know, Mr. Gray, next Thursday at nine o'clock we have a date which has been allowed by the Chief of the Committees Branch. Therefore, we can meet next Thursday, if that suits the Committee?

Mr. GRAY: Mr. Chairman, I am not suggesting that we do not have the meeting next Thursday; I just wished to put this point before the Committee, and you may want to take it into account and see what happens on Thursday.

The CHAIRMAN: As I have said, next Tuesday at eleven o'clock, at the suggestion of the steering committee, we have this date which has been allotted to our Committee.

Mr. Lefebvre, have you something to add?

Mr. LEFEBVRE: I would like to see the steering committee take into account the Agricultural Committee, too, because I think there are two or three of us right here now that should be in Agriculture. I see Mr. Ricard is here; and there may be others.

Mr. RICARD: There is a meeting going on right at this moment, across the floor.

Mr. GRAY: I think we should now hear the Minister on the subject matter of the bill which we have made the point of authority of this Committee this morning.

(Translation)

Mr. ÉMARD: Mr. Chairman, I think that it is quite difficult to give one's entire attention to all the committees. At 9.30, I myself have to attend three committee sittings: Defence, this one and Veterans. It is thus very difficult for me to give my entire attention to all the committees which we must attend. The best thing to do is, I think, to carry on even so. I have talked about this to Mr. Deachman, who deals with the committees, and he told me that there was no other possible solution to this.

(English)

The CHAIRMAN: We will certainly have a meeting of the steering committee and, following your suggestion, we will try to find the best solution.

Would you move the concurrence to the steering committee report?

Mr. DUQUET: I so move.

Mr. ÉMARD: I second the motion.

The CHAIRMAN: Motion agreed to.

May I ask now for a motion for printing? This is with regard to the number of copies to be printed. It has been suggested that the Committee print 1,000 copies in English and 500 copies in French of the Minutes of Proceedings and Evidence.

Mr. LEFEBVRE: I so move.

Mr. DUQUET: I second the motion.

The CHAIRMAN: Motion agreed to.

I will ask the Clerk of our Committee to read the orders of reference.

The CLERK OF THE COMMITTEE: Ordered that Bill No. C-2, an Act to amend the Fair Wages and Hours of Labour Act be referred to the Standing Committee on Labour and Employment. Léon-J. Raymond, the Clerk of the House.

The CHAIRMAN: Gentlemen, I should like to invite the Hon. John Nicholson, Minister of Labour, to make an opening statement.

Hon. John NICHOLSON (*Minister of Labour*): Thank you, Mr. Chairman. Gentlemen, as the Clerk of the Committee has said, this Bill that has been referred to this Committee, Bill No. C-2, is the bill to amend the Fair Wages and Hours of Labour Act.

That Act has been in the revised statutes in the last two or three printings. In fact, it has been in the Statutes of Canada, without amendment, since 1935.

The purpose of the Bill, as I explained in the House on the motion for second reading, is to deal with the wages and the hours standards of the Fair Wages and Hours of Labour Act which relate to government contracts only. This statute, the Fair Wages and Hours of Labour Act, applies to nothing except to government contracts—the construction of public buildings and work of that nature.

The intent of this amendment is to bring the Fair Wages and Hours of Labour Act, which applies to government contracts, into line with the Labour Standards Act which was approved by parliament last year. It is nothing more than that. It is a very simple amendment.

I have brought along, and I would like to introduce, if I may, the officials who are with me. The Deputy Minister, Mr. George V. Haythorne, the Assistant Deputy Minister, Mr. Wilson, the head of the Legal Department, Mr. Davis, also Miss Lorentsen of the Legislation Branch and Mr. Johnstone who is the Director in charge of administration of the Labour Standards Code. They are here to answer any questions that may be put to them either before or after witnesses are called.

I am assured by them that this Act, which has been on the Statutes Book now for over 30 years, has stood the test of time and has proved a very valuable protection to both workers and employers.

The change being proposed this morning, or in the Bill, is an amendment that is nothing more than a *bona fide* effort by the government to carry out a promise which was made by my predecessor, Mr. MacEachen, when he was Minister of Labour. Those of you who were in the House at that time will, no doubt, recall that when the Labour Standards Code was before the House, one or more members—I know one of them was Mr. Knowles of the New Democratic Party—said, “Well, that is all very well; you are doing this for industries that come within the jurisdiction of the federal government. But what are you doing about government contracts themselves?” Mr. MacEachen then undertook to bring in, at the next session, or, in fact, in the continuation of the same session—he had hoped to do it last fall but there was another event that intervened—but he gave an undertaking in the name of the government to bring in an amendment which would bring the Fair Wages and Hours of Labour Act for work on government contracts directly into line with the Labour Standards Code which was passed by the House.

An examination of the Bill will show that. I think you all have copies of the Bill. If you look at the explanatory notes on the side, you will see that section 2(a) of the Fair Wages and Hours of Labour Act defines wages: “‘Fair Wages’ means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed for the character or class of work in which such workmen are respectively engaged, but shall, in all cases, be such wages as are fair and reasonable.” Now you will notice that if you compare that with the proposed amendment, there is no change in wording up to that point. “Fair wages” means the wages that prevail in the district where the work is being done, and they shall be fair and reasonable. Then, as I said, to bring it in line with the Labour Standards Code, these words are added: “and shall in no case be less than the minimum hourly rate of pay prescribed by and pursuant to the Canada Labour Standards Code.” That is the first of the basic amendments.

Representations have been made to Members of the House. It is because of these representations that I felt this Bill might very properly be referred to this Committee. Representations came, principally, from the Canadian construction industry represented here by Mr. Stevens, and those representations were supported by representatives of the unions involved in the construction industry. I might say that a brief was forwarded to Mr. MacEachen in the spring of last year before the Labour Standards Code came into effect. Representations were made in the form of a brief to Mr. MacEachen, and copies were sent to some, if not all, members of the House at that time. Similar representations have been made in the form of a brief presented by the two groups that I have mentioned since the Bill was introduced and, in fact, since the motion was made for second reading.

● (10:00 a.m.)

In order that you and other members of the House would have the benefit of any views they have put forward, I recommended, and the government concurred, that it be referred to this Committee for study; because it is a very simple Bill, and while one may be able to sympathize with the objectives of an

industry or, perhaps, of labour, in trying to be excluded from the provisions of the Bill, in my view, at least—and I feel very strongly on this—it would be directly contrary to what we are attempting to do. We want to bring in a labour standards code that is uniform across Canada and which applies to all industries.

You will recall that we had made provision in the labour standards code, and we have made provision in this draft bill, for special conditions that may exist in certain areas. We know, for instance, that when you get up into the northern part of this country, into the Territories, or even into the northern parts of the provinces where you have the short days and the long nights and, *vice versa*, the long days and the short nights, the great bulk of construction work is done during the summer months; and, to get people to go up and work, incentive arrangements are often made so that they will work long hours for particular months of the year, and they can work in other parts of Canada, or not work, as the case may be. Provision is made for such situations in both this bill and in the Labour Standards Code.

But, as a general principle, we have thought, and a great majority of people in the House of Commons have felt, that we should say to all Canadians and to the rest of the world that we want a minimum of \$1.25 an hour regardless of what happens in some areas. I realize that \$1.25 an hour does not have too much significance in the part of the world that Mr. Barnett and I come from—British Columbia. Because of the boom that has been going on for the last few years it is uncommon for any person to get less than \$1.25 an hour. On the other hand, in the part of the world where Mr. McCleave, Mr. Muir and I were born the same high standard did not prevail, and we have had wages of 60c and 62c an hour in those provinces within the last 24 months.

We want a standards code and we want that standards code to apply to government contracts as well as to those over which the federal government has jurisdiction. We feel that the government has a responsibility to keep wages and hours on government contracts in line with other contracts. We also feel that such contracts are just one step removed from direct employment by the government itself, and every government employee, every employee by the federal government today, gets this minimum of \$1.25 an hour. We feel that it would be unwise to depart from the principle that is incorporated in the Labour Standards Code and which, we hope, you will recommend be incorporated in the Fair Wages and Hours of Labour Act.

I might say that, for practical reasons, the government has, for the last 30 years, recognized the prevailing practice that wage rates in the district where the work is being performed are always respected. There has been no departure from that; but in some parts of Canada, primarily eastern Canada, it has not been uncommon, up until within the last 12 or 24 months, to have wages appreciably below the national minimum standards that now apply. We have never had a national minimum in Canada until last year. Now that we have such a standard, we think, in spite of pleas that may be made for specific industries, whether they are supported by a segment of the employees involved—the workers involved—or not, that it would be a very dangerous thing to start off making exceptions.

There is another feature: A great deal of government work is subcontracted, and were we to accede to the suggestion put forward, the responsibility would rest with the federal government to undertake the policing of contracts

and sub-contracts and everything else. We prefer to have, and have done it consistently for many years; that is we prefer to have the conditions of work that apply to the contracts and the sub-contractors defined in the specifications.

Now, some members who are here—members of this Committee today—have asked me, between the two parts of the second reading of the Bill, “How do the provinces feel about this?” That is a perfectly natural question because most of the work on construction comes within the jurisdiction of the provinces rather than the federal government. I might say that federal government contracts involve only about three per cent of construction in Canada; the other 97 per cent comes within the jurisdiction of the provinces. With that in mind, I have, together with my deputy, had meetings with the Governments of the Provinces of Ontario, Quebec, British Columbia and Manitoba, and earlier than that my deputy met with the Ministers of Labour of all the provinces of Canada. I can assure you that they seem to be in agreement with the spirit of this Bill, with the principle of the Bill, and that they certainly do not encourage any departure from the principles that are embodied in the Act itself.

I think you should also keep in mind collective bargaining, which is the proposal that is put forward by Mr. Stevens and his associates. They say that the guide should be not the definition in the Act but the collective bargaining that comes out of negotiation. I would ask you to keep in mind, gentlemen, that collective bargaining in the construction industry is mainly on a craft basis. You have skilled workmen with trades, who are engaged there. Most of the skilled workers throughout the country had already obtained the 40-hour week before the bill—there is a second part to this bill. In the Act that now appears in the Statutes, in the Fair Wages and Hours of Labour Act, subsection (1) of section 2 provides, if you look at the second explanatory note on the Bill that is before you:

Every contract made with the Government of Canada for construction, remodelling, repair or demolition of any work is subject to the following conditions respecting wages and hours:

- (b) the working hours of persons while so employed shall not exceed eight hours per day nor forty-four hours per week except in such special cases as the Governor in Council may otherwise provide, or except in cases of emergency as may be approved by the Minister.

The only change proposed in that section is to substitute “forty hours” for “forty four hours”. There is no other change. Therefore, as I am saying, in the construction industry generally, in all parts of Canada, the 40-hour week is nothing new. They have had it, in fact, before the legislation was passed. However, other workmen employed in the industry, are not tradesmen. This applies particularly in the outlying parts of Canada where you have such works as the laying of asphalt and operations of that kind. They are frequently employed under conditions which may include a collective agreement that provides for longer hours than the 40 or 44 hours that have heretofore applied to the craft. The impact of this legislation, admittedly, is to make it obligatory that these people should work not more than 40 hours a week; or if they do work, they should get the overtime that is provided for in the complementary legislation.

In my view, and in the view of the officials who are here, this change from 44 to 40 is not a change in principle, it is just implementing a decision which,

the Parliament of Canada has already said, should apply to workmen across this country. It certainly does not run counter to any standards that have been applied under collective bargaining today. What it does is to require that the same standards be applied to the minority who ordinarily work the longer hours; we are protecting this minority.

I do not know, Mr. Chairman, that there is very much more that I can say. I would be glad to attempt to answer any questions that may be put to me and, as I have said, the officials are here for that purpose.

The CHAIRMAN: Gentlemen, I do not know how many questions you would like to ask the honourable Minister but—and this has something to do with the next sitting of the Committee—as you know, you have accepted the report of the steering committee regarding the witnesses who are to appear and you know that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request is to be the first witness. The Minister referred to Mr. Stevens in his statement. Mr. Stevens has been in touch with me by telephone, and he mentioned to me that, as Director of Labour Relations of the Canadian Construction Association, he would like to present some evidence to this Committee, or to make representations, to use his own words this morning, and also, some of the people of the union.

I would like to suggest that, with your permission, we could, perhaps, ask Mr. Stevens to appear as a witness this morning so that the Committee will know exactly what kind of representations the Canadian Construction Association would like to present to this Committee, and also those of the union people who would like to make representations.

Mr. Stevens told me on the telephone that some of the union people could not appear before the Committee for two or three weeks. I informed Mr. Stevens that it would be up to the Committee to decide if they would like to hear more representations after hearing what Mr. Stevens may have to say. I am wondering whether, after the honourable Minister answers the questions we could have Mr. Stevens, or somebody from the union, appear and tell the Committee what representations they would like to make to the Committee, since they have asked that the Committee postpone their sittings for two or three weeks. This is a problem on which the Committee will have to make a decision later.

● (10:15 a.m.)

Mr. NICHOLSON: Mr. Chairman, I think perhaps it would be helpful if I did tell the Committee that I, along with one or more officials of my Department, have had two meetings with Mr. Stevens and some of those associated with him and the written brief was later presented. The first meeting was rather a short one but our second meeting was a very extended one. We discussed all of the points that I have no doubt Mr. Stevens will be developing before this Committee. They were carefully considered. I might say the same representations were made to Mr. MacEachen approximately a year ago and I have had the benefit of a discussion with him on the subject.

While, as I said earlier, we could appreciate why one industry might like to have an exception made, I think I could tell you that the grain elevators of the prairies, the towboat operators on the Pacific coast, a great many industries in Canada like to have their particular industries excluded from the application of

the act. We felt it would be a dangerous precedent to start making exceptions unless there were some unusual grounds such as those I have mentioned: construction in the north, or something of that kind which is already provided for in the act.

MR. BARNETT: Mr. Chairman, it seems to me it is rather important that the members of this Committee should, while the Minister has the officers of his Department here with him, first reach a clear understanding in their own minds as to the terms of the bill and the implications of it. It seems to me that we would be in a much more informed position to effect any representations that may be made to the Committee by people outside the House who are interested in the bill, if we were first to consider the bill and its implications, to the point where we are satisfied that we understand exactly what it involves. It is with that in mind that I would like to address one or two questions to the Minister. The question of how and when we meet with industry or trade union representatives could be dealt with strictly before the conclusion of this meeting. If I may I would like to ask one or two questions at this time on the implications of the bill.

As the Minister said, the Fair Wages and Hours of Labour Act has remained in our Statutes unchanged for many years, certainly long before we had any hope of having a national labour code which came into existence recently. My first question arises out of the fact that the bill seeks to incorporate into the Fair Wages and Hours of Labour Act, as I understand it, the provisions of Parts I and II of the Canada Labour Code which have to do with minimum wages and hours of work. My question is with reference to the Canada Labour Code, Parts III and IV, which deal with annual vacations and general holidays. I would like to know why it is that in this bill to amend the Fair Wages and Hours of Labour Act there is no reference to the matter contained in Parts III and IV of the Canada Labour Code?

MR. NICHOLSON: The basic reason is, and we have tried to go along with the intent of the original legislation. Only three per cent of the construction contracts come within federal jurisdiction; 97 per cent are within provincial. As far as possible, we would like to keep in line with the holidays that are respected in the different provinces. I, personally, have no objection whatever to having the same number of holidays listed in this act as in the other one, but in view of the very relatively low percentage, and in line with the spirit of the original legislation that fair wages mean such wages as are generally accepted as current in the conditions of work, and so on, we did not deal with the holiday matter. That is the basic reason. I have no great objection to your saying that you shall have eight holidays with pay in this bill but I think our reasons are sound for not dealing with the matter.

MR. BARNETT: I wanted to be clear on whether the question of provincial jurisdiction over employees in this field arose but I would suggest, as I understand the Fair Wages and Hours of Labour Act, this is, in effect, an intervention into the setting of standards in the field that lies within provincial labour jurisdiction, by the federal government's in these specific matters.

MR. NICHOLSON: I have no objection... if this Committee wants to recommend there should be a given number of holidays, I personally have not the slightest objection. It might be a constructive suggestion if the Committee feels that way.

Mr. G. HAYTHORNE (*Deputy Minister, Department of Labour*): There are one or two aspects of this that, perhaps, we should have before us. One is, as Mr. Nicholson has just said, there are only about three per cent of the workers engaged in construction under federal jurisdiction. Where you have a specific job of work being done for the federal government, as you do under a contract, you have the problem arising right away about what those individual workers are doing during the rest of the year. There is a bit of a problem here which we have to wrestle pretty hard with, whether you want to have, generally, for most labour conditions the prevailing practices established either through collective bargaining, aside from these two which are pretty basic, or whether you want to have it done under provincial jurisdiction which covers by far the majority of people and on a year round basis; whereas in our case we dip in and out, as it were, whenever we have a contract, or put it into our legislation. I think, perhaps, the consensus was, after we thought about this thing pretty carefully, that we would do well, after discussing this with the provincial ministers and officials, not to move any further as Mr. Nicholson has said into the area of establishing conditions through legislation by the federal government than we had already done back in 1935. We did it then to establish the basic standards for both wages and for hours.

If you start going into these other two fields that are covered in the code, as you correctly point out, Mr. Barnett, then there are several other fields that you might feel you should go into, too; for example, safety. We have thought it is more practical and certainly much less complicated if, in the construction industry where by far the bulk of the inspection in this industry, from a safety point of view, is carried on, in any event, by the provinces we stayed with the two basic areas. We felt that rather than get into any problem here of overlapping jurisdiction we could, preferably, stay with these two basic areas, the fair wages and the hours of labour, as being the essential features of the contract, and then say, as we do now, when we let the contract it is understood that provincial regulations and provincial legislation be respected.

Mr. NICHOLSON: However, as I say, gentlemen, it is for you. That was the consensus of the experts who were advising me but you, after all, are the Committee.

Mr. BARNETT: Perhaps I could ask just one more question?

The CHAIRMAN: Is it your second question, Mr. Barnett?

Mr. BARNETT: Yes.

The CHAIRMAN: As you know, some other members of the Committee would like to ask questions. Is the second question related to the first one?

Mr. BARNETT: Not directly. It relates to a feeling that I have to wanting to be clear on all the implications of the bill. My second question relates to section six of the existing act which states that the Governor in Council, on the recommendation of the Minister, may make regulations covering the whole field of hours of work; the method of determining what are fair wages; rates of wages for overtime; classifications of employment or work; the publication and posting of wage schedules, et cetera. In view of the Minister's statement as to the nature of some representations that have been made about the bill, it does seem to me that it would be desirable to us for a proper understanding in

assessing what the policy has been in the administration of the existing Fair Wages and Hours of Labour Act to get some idea of where we may be going under the proposals contained in the Bill. If it is available, could we have a consolidation of the existing regulations before us when we are considering the bill and the representations that are made on it. Rather than have to search through the *Canada Gazette*, Part II, could we be supplied with a copy of the existing regulations?

Mr. NICHOLSON: Whatever we can do, Mr. Barnett, we would be very glad to do. We have a copy of the regulations and of the Fair Wages and Hours of Labour Act that is now in force. They are very short. They define a contract. They say the "Minister" means the Minister of Labour and there are only eight clauses to it. I think the Committee might get more help if, in addition, if they wanted to pursue this question, they looked at the regulations that have been passed under the application of the Canada Labour (Standards) Code. They are the ones that govern work generally and the government's intent is to bring the Fair Wages and Hours of Labour Act, as I said earlier, into line with the Canada Labour (Standards) Code. You really have to look at the two sets of regulations: the existing regulations under the Fair Wages and Hours of Labour Act and the new regulations under the Canada Labour (Standards) Code. I have them both here. Other copies can be made available to any member that would like to have them.

Mr. ORLIKOW: Can they be printed as an appendix of today's proceedings?

Mr. NICHOLSON: Yes, they can be put in an envelope at the back; not necessarily printed but incorporated in an envelope, so that we can photostat the existing copy.

The CHAIRMAN: Is it moved by Mr. Orlikow that these would be printed as an appendix?

Mr. BARNETT: I was hoping we might have them available before the minister's remarks are printed.

Mr. NICHOLSON: We can make them available and at the same time incorporate the suggestions made by Mr. Orlikow and attach them as an appendix to the minutes of today's meeting.

There are only 15 members present. We have enough to pass them around now.

The CHAIRMAN: Did you move a motion, Mr. Orlikow?

Mr. ORLIKOW: I so move.

Mr. RÉGIMBAL: I second the motion.

Motion agreed to.

Mr. NICHOLSON: Gentlemen, while these regulations are being passed around to you, it has occurred to me that I have not drawn attention to one of the ancillary or complementary items in Bill No. C-2. Strangely enough, while we have had this Fair Wages and Hours of Labour Act in force for over 30 years, as I have just said, and it outlines the government's objective, there is no provision for default if a contractor commits a breach of the Act and we have made provisions in this Bill No. C-2, subsection 2(c) for liquidated damages in the event of default, because there is no point in having an act with no teeth in it.

(Translation)

Mr. ÉMARD: I should like to ask a question of general interest, not very closely connected with the Bill. With regard to the minimum wage of \$1.25 an hour, I should like to know what happens in the case of individual contractors, that is those who work alone as, for example, rural mail distributors, post office cleaners and, in some cases, cafeteria employees. Among these people there are many who make less than \$1.25 an hour. For example, I know people who distribute rural mail and who have to provide a vehicle and gas yet who do not receive even \$1.25 an hour. How will these people be protected by the Bill before us?

(English)

Mr. NICHOLSON: Mr. Chairman, I think Mr. Émard's question is a very proper and helpful one. In fact, I heard it asked when the Labour Standards Code was being debated last year. This bill applies to construction contracts only. It does not apply to mail contracts, service contracts or work of that nature. They are covered by a special government employment policy order. This bill applies only to construction contracts. The other is covered by other legislation. It has been covered. I have seen the employment regulation that provides for these minimums in other contracts.

Mr. ÉMARD: Mr. Chairman, do the conditions that govern other public works stand up to the minimum established by this law?

Mr. NICHOLSON: They stand up to the minimum of the Canada Labour (Standards) Act, if you go along with us in this bill. We want to bring the regulations that apply to this type of construction contract into line with all the regulations that apply to contracts generally within the Labour Standards Code.

Mr. RICARD: In other words, it is going to be made \$1.25 right across the board.

Mr. NICHOLSON: That is correct, that will be the minimum. If they want to pay more, they can. I might say that we discussed this in the Province of Quebec with the minister and the deputy minister of labour and their advisers. They assured us that in the construction industry it was not going to cause them any problem; they already pay, in the construction industry, that minimum.

Mr. RÉGIMBAL: I am just wondering if there is not a matter of principle involved as far as actual jurisdiction is concerned. The law, as it has stood for a long time has had no teeth in it, so it was window dressing, more or less, because there was no actual application that could be brought into force. Once we put a law, such as this one, in an active state, I am worried about provincial jurisdiction, and I would like to have some of the evidence that was presented by the provinces in this respect. It was stated by the legal adviser, Mr. Haythorne, just a while ago that we could go into safety, we could go into everything once we agree to hours and minimum rates. Where does the provincial jurisdiction come in?

Mr. NICHOLSON: Perhaps I can answer that. Also at the time that the Canada Labour (Standards) Code was before the House at the last session, Mr. Régimbal, an assurance was given by the government, by my predecessor, Mr. MacEachen, that we would introduce a federal labour safety code. We have none today. We have oddbits of safety legislation; we have safety legislation

which applies to the running of trains but it does not apply to the roundhouses or the service shops or the railways, or to the people who are doing yard work. We also have safety legislation that applies to airplanes and on docks, but it does not apply to the service shops of the airlines. We are committed as a government, and reference is made to it in the Speech from the Throne. At this session, we will introduce a labour safety code.

I must say—and I am not betraying any confidence because it is generally known—that we have discussed this with all ten of the provinces, if my understanding is correct, I know with at least nine and I think with all ten and certainly with the larger provinces of Quebec, Ontario, Manitoba and British Columbia. We discussed this in some depth. Most of the provinces welcome a federal safety standards code. They have agreed with us in principle that as long as we do not go too far away from the principles incorporated in the provincial acts, they will have no objection to the federal government doing this. They have gone further than that. All the provinces that I have spoken to—and I have spoken to the ministers of at least five provinces personally—have agreed to police our new safety code if, or when, parliament adopts the code. There will be no duplication of effort and no overlapping such as might properly concern us.

Mr. RÉGIMBAL: I suspect that they would not have gone so far as this active piece of legislation has gone.

Mr. NICHOLSON: In what respect?

Mr. RÉGIMBAL: The minimum hours and wages.

Mr. NICHOLSON: No, on hours of work per day, per week and wages, each province has its own code. I doubt whether there is any province that has as yet adopted a minimum standard of \$1.25 an hour. I have noticed that in the Province of Quebec, in the course of a campaign, certain assurances have been given they are going to adopt the \$1.25 minimum. To my knowledge, they are very close to it in two or three provinces, but the statute does not prescribe a minimum of \$1.25 an hour.

Mr. RÉGIMBAL: What I am worried about is that it applies only to three per cent. Could it not be interpreted by certain groups and even governments that it is undue influence in establishing a springboard from which they could go into the province because then they will say federally if you can establish a minimum and it does not apply provincially, this should be the springboard, the starting point of any legislation within the province. From that point, it could be interpreted as undue influence.

Mr. NICHOLSON: There are two answers to that, Mr. Régimbal. In the first place, the Parliament of Canada, in its wisdom, has passed a labour standards code—

An hon. MEMBER: Without any teeth?

Mr. NICHOLSON: No, this code has plenty of teeth. It is the old act, the Fair Wages and Hours of Labour Act, that has no teeth. The new code has teeth. All we are saying is that in the field of construction, only three per cent of construction work is federal contract work. We have said to the banks, to the railways, to the air line companies, to every industry that comes within federal jurisdiction, you have got to adopt the minimum standards of the Labour Code.

We have also said in relation to service contracts, window cleaning, also contracts in separate legislation that you should do this. All we are now saying is that contractors who are going to build or perform construction work for the federal government have got to apply the same standards that we have imposed, Parliament has imposed on every other industry in Canada that comes within federal jurisdiction. So it makes sense in that respect.

Mr. RÉGIMBAL: Speaking specifically of Bill No. C-2, to whom will this law apply?

The CHAIRMAN: Will you allow Mr. Haythorne, the Deputy Minister, to answer this question?

Mr. HAYTHORNE: Mr. Chairman, just to enlarge on what Mr. Nicholson has said, I think it may help Mr. Régimbal if we keep in mind that this is legislation that covers the manner in which the government is going to carry on its own business. We are dealing with contracting for a job of work that the federal government is doing for itself, because the legislation is dealing with construction contracts for the Government of Canada, we can stipulate, in the calls for tender, if you like, what the conditions shall be. There is no question of a constitutional problem here as far as the industry coming under federal or provincial jurisdiction is concerned. There is no question, Mr. Régimbal, that the construction industry is under provincial jurisdiction but because it is our business that we are talking about here, we can lay down—and this is what has been done over the years—the conditions. I think it is important, when we lay down these conditions, that we do keep in mind, in so far as practical and sensible, what the existing conditions are that are applicable in the provinces and that we always do. I would like to go on and just say, for a moment, that when we introduced the basic provisions for the wages and the hours of labour, we did this on the understanding that we were establishing then what we regarded, from the federal government's own point of view, as reasonable and fair. There is no question that if there should be in any provinces additional provisions that ought to be met, they will be met.

Mr. RÉGIMBAL: Would you not get the same effect though without the necessity of a law? You just put it into your specifications, as you do in other instances?

Mr. HAYTHORNE: That is what we are doing.

Mr. RÉGIMBAL: You are putting it into law. Specifications can be so much more supple and adaptable to conditions wherever you go and you do not run into difficulties. For instance, I am thinking of the application of this law in terms of outlying districts where \$1.25 is a big feature and where a small employer, in this particular area, can provide employment for, say, a general average of \$1.25. It suits the community and it suits everybody else. What position would he be in if, in the midst of all this, over a period of three or four or five months in the execution of a particular contract, he might possibly lose some very good men? This is where this jurisdictional difficulty comes up and I know that there is some very definite feeling about that.

Mr. HAYTHORNE: There are two points here, Mr. Chairman. One is a point Mr. Nicholson has already made and in our discussion with the provinces and,

particularly, in the province of Quebec, there is no real problem they envisage as far as \$1.25 is concerned. The other point, I think—

Mr. RÉGIMBAL: I am sorry, may I ask a question? From what governments, do you mean?

Mr. HAYTHORNE: From the provincial governments, yes. We have examined carefully the decrees, you know, the standards enforced by the parity committees throughout the province and the \$1.25 is not out of line—

Mr. RÉGIMBAL: What percentage of industry and labour is covered by the parity committees now?

Mr. HAYTHORNE: In the construction industries.

Mr. RÉGIMBAL: I know, but there is more than construction industries involved.

● (10:45 a.m.)

Mr. HAYTHORNE: We are only talking about the construction industry. The other point I would like to make, just briefly, is that parliament has reached a decision, that, as a national standard, \$1.25 is a reasonable basic level. As Mr. Nicholson said, the commitment was made that this same minimum level would be applied on a national basis to this act.

The CHAIRMAN: Gentlemen, I have quite a few witnesses.

Mr. MACKASEY: May I just ask a supplementary question to Mr. Régimbal's—

The CHAIRMAN: Is that a supplementary question?

Mr. MACKASEY: Just one clarification. What you are saying then, sir, is when Bill No. C-2 is adopted, it will make it imperative and obligatory for the government to include these standards in all their contracts to everybody. In other words, we will adopt the principle that we have a standard minimum across Canada without exception?

Mr. HAYTHORNE: It cannot be less.

Mr. MACKASEY: And this is the main purpose?

Mr. ORLIKOW: A supplementary to that—

The CHAIRMAN: Is this question on the same point, Mr. Orlikow?

Mr. ORLIKOW: It is related but not actually.

The CHAIRMAN: I do not want to cut off Mr. Régimbal. You have a question, Mr. Régimbal?

Mr. RÉGIMBAL: Just this one. I asked this question but did not get an answer so I think I should come back to it. Who is mainly affected directly by this particular bill?

Mr. HAYTHORNE: Just the construction employees under federal government contracts.

Mr. RÉGIMBAL: The construction employees and the contractors accepting tenders? These are the two areas that are particularly concerned. Therefore, the points of view represented by construction employees are particularly important to us to consider?

Mr. HAYTHORNE: That is right.

Mr. ORLIKOW: Mr. Chairman, I am concerned about the fact that the passage of this bill not only sets a minimum, but could also very well set a maximum. In other words, if an employer is required to pay \$1.25 an hour and no more, then an employer who does not use employees who are organized and does not have an agreement with the union to pay the union rates, can very well take a contract which a contractor dealing with organized employees cannot meet in terms of cost because his wages are much higher. I have no specific illustrations on whether this happened in the construction industry which this bill deals with exclusively, but I know, for example, that the International Association of Machinists had a contract for the maintenance staff, the cleaning staff, at Gander Airport which paid—I am speaking from memory—something in the neighbourhood of \$1.60 an hour. Another company came in and paid \$1.25 an hour and took the contract over because they could hire people at substantially less than the union contract provided for and, therefore, they could cut the tender which the company, which had the contract before, could submit. It seems to me that this could happen under this bill and I am wondering why the bill, while setting a minimum which this does, could not provide that where the rates, by negotiation, are higher they shall be the prevailing rate.

Mr. NICHOLSON: I think, Mr. Orlikow, if you look at clause 1 of the bill, at the definition of fair wages, you will see that we have answered your point.

“Fair wages” means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed for the character or class of work in which such workmen are respectively engaged; but shall in all cases be such wages as are fair and reasonable—

They would come under that, would they not?

Mr. ORLIKOW: I know, Mr. Chairman, and I do not want to anticipate, in any detail, the brief circulated by the construction association; but they did make the point there that a very substantial part of the total wage picture is now that part that we call fringe benefits and that is not spelled out in the act. If an employer could, just by paying \$1.25, or something similar, ignore the fringe benefits which are just as much a part of the wage package as the exact hourly wage, then he could get into some considerable difficulty.

Mr. NICHOLSON: That is accepted. Items of that kind are generally dealt with in the collective bargaining agreement.

Mr. ORLIKOW: But I know that—

Mr. NICHOLSON: If that applies in the area they would come clearly within this definition “accepted as fair and reasonable.”

Mr. LEFEBVRE: A supplementary, Mr. Chairman? If we did not have the minimum of \$1.25, the contractor would have had the contract for maybe 90 cents an hour. I do not see any difficulty with this \$1.25 at all. It is a guarantee; that is all it is.

Mr. ORLIKOW: Mr. Chairman, that is exactly the point I am making. I want this to be the floor. I think it should be higher than \$1.25 but I will accept that for a beginning. I do not want the floor to become the ceiling.

Mr. NICHOLSON: You should understand that the fringe benefits are not dealt with in this proposed legislation. The fringe benefits differ from place to place, contract to contract and industry to industry. In this bill is a definition of "fair wages". This is a matter that we discussed with the groups that were making representations to us. We said we want to ensure a minimum fair wage. We cannot get into the details of fringe benefits in different industries in different parts of Canada.

Mr. ORLIKOW: I would like to ask a second question?

The CHAIRMAN: Yes, Mr. Orlikow.

Mr. ORLIKOW: Clause 2 deals with the question of the hours of work and says that in special cases the Minister may permit a longer week than the 40-hour week and the 48-hour week, which I presume, would be overtime. Now, I understand the argument has been put forward by the construction industry and the unions that in some work, particularly in isolated areas, both the industry and the workers want the right to work longer hours because of the usual argument that there is nothing else to do, and so on. At the same time, I am wondering if the Department has given thought, in a general way, to limits on this. I know that, for example, in my own province of Manitoba on the building of a power project for the provincial government some seven or eight years ago I had sworn affidavits from labourers that they had worked every day for six months; they had worked an average of, not forty hours a week, but 100 hours a week and, when they were asked why they did it, they said, "We were told if we would not work that way, we could quit". Personally, I do not think that anybody should work those hours, even if the worker wants to work those hours. I am wondering if the Department has given thought to the policy of maximums regardless of what the arguments are?

Mr. NICHOLSON: We have done it in this way. You remember there was some criticism directed to me for not interfering in the truckers' strike in the Province of Ontario. The reason for that was it was not uncommon, in fact, it was very common, for the trucking industry to operate 70 hours a week and, in some cases, as much as 84 hours a week. A strong delegation came from the management side in the trucking industry and did their best to persuade me, just as is being done here, that they should be excluded. They had done this for so long, and there was no question of pay, they were willing to pay more money. But there is a safety angle in driving trucks on the highway and I felt, and so did the departmental officials, that there was to be no such exception in our thinking. If the Parliament of Canada said that in general the work week should be 40 hours and that in no cases should you make the work week more, on an averaging basis than the maximum prescribed in the act, we should stick to that.

There was a little difficulty in negotiating the terms of the new contract but they have now reached the formula where they have come down from this, more or less, standard work week of 60 or 70 hours, in many cases, to where they will have the 40 hour week by the end of 1967.

The CHAIRMAN: Mr. McCleave.

Mr. ORLIKOW: Just one more question.

The CHAIRMAN: Is this on the same topic.

Mr. ORLIKOW: Just one more question and then I am finished.

The CHAIRMAN: If this is the same topic, yes, but I think Mr. McCleave should have the right to ask his question now.

Mr. ORLIKOW: We have only one topic, Mr. Chairman. Other people have asked—

The CHAIRMAN: Then, if there is only one topic, I think I am going to give the right to speak to Mr. McCleave. I will put your name on the list again, Mr. Orlikow.

Mr. MCCLEAVE: Mr. Chairman, for the convenience of the Committee, we have the submission last May to the previous minister and it seems to amount to about eight requests. I wondered if we could have some statements from the Minister or the Deputy Minister as to which requests are met by the changes in the Act, which could be met by order in council and which they feel should not be met?

Mr. FAULKNER: Do we have copies of this submission that Mr. McCleave has referred to?

The CHAIRMAN: Were they not mailed to you?

Mr. NICHOLSON: A great many members of the house got them, I know.

Mr. BARNETT: I was wondering whether it would be a more orderly method if we dealt with the questions raised by a brief which has not been directly put before the Committee after we heard from the representatives of the construction industry. I presume they may have some material that they may want to put before the Committee in an orderly form.

The CHAIRMAN: With the permission of the Committee, I would say this is one brief which was presented by the Canadian Construction Association. Is the Committee ready to hear Mr. Stevens who compiled this brief and wishes to speak in support of it?

Mr. MCCLEAVE: Mr. Chairman, the answer does not have to be given today because, obviously, all members of the Committee do not have this joint submission. I think it would be helpful, it would tend to narrow the area where the Committee has to make its consideration.

The CHAIRMAN: Gentlemen, at eleven o'clock this room is to be used by another Committee. Would you agree to adjourn the meeting until this Thursday at eleven o'clock? In the meantime, perhaps Mr. Stevens could give the clerk as many copies of the brief as are needed for the Committee which could be distributed to the members of the Committee. Mr. Stevens and/or Mr. Carroll could then answer the questions which the Committee would like to ask.

Mr. NICHOLSON: I am not altogether certain that Mr. Carroll is speaking in support of Mr. Stevens' brief.

The CHAIRMAN: I know there are some other briefs that have been submitted.

Mr. NICHOLSON: Perhaps I might now answer Mr. Orlikow's question.

Mr. ORLIKOW: Mr. Chairman, I still would like to ask my question.

The CHAIRMAN: Is the question you wish to ask relevant to the question Mr. McCleave asked the Minister?

Mr. NICHOLSON: I am speaking now because Mr. Orlikow says he has one further question. Unfortunately, I will not be here on Thursday but the Deputy Minister and the other officials of the Department will be here to answer your questions. If Mr. Orlikow, or any other member, had a question, while I am here, I will be glad to attempt to answer it.

The CHAIRMAN: I would just like to say, Mr. Nicholson, that since we have to clear this room by eleven o'clock, I suggest to the Committee that we adjourn until this Thursday at eleven o'clock.

Mr. ORLIKOW: If the Minister is not prepared to answer my question perhaps he would take it as notice. I would like to know from the Department, what the Department is planning in terms of enforcement by enforcement, I do not mean I am specifically asking about this field. I am thinking of the labour code which we passed earlier and of the safety code which I hope we are going to pass because frankly, we do not have the staff, as far as I can tell, and my experience with the provinces is that they do not have the staff.

Mr. NICHOLSON: I can answer that. We cannot go into the details of the safety bill because it has not, as yet, been laid before parliament. I said I was not betraying any secrets because it has been discussed fairly openly with the provinces that we hoped that we would be able to take advantage of their inspectional staff. They have factory inspectors, and officials working under the Workmen's Compensation Boards in the different provinces. In principle, they have agreed to accept this responsibility if we ask them and pay for it, but what the details of the safety code itself are, I could not possibly discuss at this Committee.

Mr. ORLIKOW: I did not mean that. I am just hoping that we make sure, if we leave it to the provinces, instead of having our own inspection staff, they have the staff to enforce this legislation better than they enforce their own legislation.

The CHAIRMAN: Gentlemen, I am sorry—

● (11:00 a.m.)

(Translation)

Mr. ÉMARD: Mr. Chairman, I have a question to ask the Minister before he leaves.

(English)

The CHAIRMAN: I assume we have to clear the room now, gentlemen. I will give you the right to speak at the next meeting, Mr. Émard. Is it the wish of the Committee to adjourn until this Thursday at eleven o'clock?

Mr. Stevens of the Canadian Construction Association cannot be here this Thursday, I understand. Mr. Stevens can you tell us if you will be here this Thursday or next Tuesday? Can you provide the Committee with copies of this brief which has been referred to?

Mr. P. STEVENS (*Director of Labour Relations, Canadian Construction Association*): Mr. Chairman and gentlemen, unfortunately, I am committed to attend a meeting of the National Technical Vocational Training Advisory Council which starts in Winnipeg on Thursday and the international representatives of the building and construction trade are also committed. We did not

know when the bill would come forward and whether it would be dealt with by a committee. In particular, international representatives are finding it difficult to come to Ottawa to appear before this Committee before May 30, the week of May 30.

Mr. NICHOLSON: Mr. Chairman, we went out of the usual way to refer this matter to this Committee. We could have gone ahead with this bill in the House a week or ten days ago but this is the business of parliament. We went out of our way to give those interested an opportunity to put forward their views before this Committee. That seemed fair.

Mr. MACKASEY: Mr. Chairman, if we cannot have witnesses before us, there is not much sense in continuing the Committee. This is a very simple bill that must go before Parliament because it is overdue now.

Mr. ORLIKOW: I would like to appeal to both the industry and labour representatives. Surely their testimony which is not long, their evidence and the questioning could be done in one day. Surely they could take a break in their negotiations, for one day, and come to Ottawa. I think I am known as friend of labour. I am speaking only for myself and I certainly would not agree that this Committee should stand till May 30 and not proceed because the representatives of the industry and the union cannot be here.

Mr. NICHOLSON: It was in the House. It could have been gone on with last week.

The CHAIRMAN: May I ask this matter to be referred to the steering committee and that this Committee adjourn until this Thursday at eleven o'clock as we have to give this room to another committee?

Mr. MACKASEY: Mr. Chairman, I recommend that we meet this Thursday at eleven o'clock with or without witnesses from the industry and from labour and we proceed accordingly and let the members satisfy themselves that Bill No. C-2 is in the best interests of the country and make their recommendations accordingly.

The CHAIRMAN: There is a motion that this Committee adjourn until Thursday at eleven o'clock. Is it seconded?

Mr. FAULKNER: I do so move.

Mr. DUQUET: I second the motion.

The CHAIRMAN: Motion agreed to.

Mr. DUQUET: What about the brief? Are we going to have copies of it.

An hon. MEMBER: You have to circulate those well in advance.

The CHAIRMAN: The meeting is adjourned until eleven o'clock Thursday.

APPENDIX 1



FAIR WAGES AND HOURS OF LABOUR REGULATIONS

(Made pursuant to Section 6 of the Fair Wages and Hours of Labour Act, Chapter 108, Revised Statutes of Canada, 1952, by Order in Council P.C. 1954-2030, of December 22, 1954, and amended by Order in Council P.C. 1960-715, of May 26, 1960.)

1. These regulations may be cited as the Fair Wages and Hours of Labour Regulations.

2. (1) In these regulations,

(a) "contract" means a contract made with the Government of Canada for construction, remodelling, repair or demolition of any work; and

(b) "Minister" means the Minister of Labour.

(2) Paragraph (a) of subsection (1) does not apply to the purchase of materials, supplies or equipment, for use in the work contemplated, under any contract of sale and purchase.

3. All cases of default in the payment of wages to employees by the contractor or other party charged with payment of wages under a contract shall be referred to the Minister for investigation and determination of the amount in default.

4. Where the Minister determines that there is an amount in default he may request the contractor or other party charged with the payment of wages to deliver to him a cheque payable to the Receiver General for the amount of the default, or may, as he sees fit, authorize and direct the Minister of the department of government concerned to deliver to him a cheque payable to the Receiver General for the amount of the default and to deduct the amount from any moneys owing by the Government to the contractor, and any amount so deducted shall for all purposes as between the contractor and the Government be deemed to be payment to the contractor.

5. Where a department has occasion through a breach of contract by a contractor to seize his security and to withhold moneys due under a contract, the department shall immediately notify the Deputy Minister of Labour.

6. Cheques delivered to the Minister under these regulations shall be deposited with the Receiver General in an account known as the Fair Wages Suspense Account, and the Minister shall authorize payment out of the account of the appropriate amounts to the employees concerned.

7. The Minister shall maintain adequate records of receipts and disbursements in respect of the Fair Wages Suspense Account.

8. (1) Every person in the employ of a contractor, sub-contractor or other person doing or contracting to do the whole or any part of the work contemplated by a contract shall

(a) except where the Minister otherwise orders, be paid for hours worked in excess of forty-four per week at a rate of not less than one and one-half times the wages required to be paid under the contract; and

(b) where the Minister so orders, be paid for hours worked in excess of eight hours per day at a rate of not less than one and one-half times the wages required to be paid under the contract.

(2) This section does not apply to any employment under a contract entered into before the first day of August, 1960.

APPENDIX 2

SOR/65-256

CANADA LABOUR (STANDARDS) CODE.

Canada Labour Code Regulations (General).

P.C. 1965-1141

AT THE GOVERNMENT HOUSE AT OTTAWA.

FRIDAY, the 18th day of JUNE, 1965.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

His Excellency the Governor General in Council, on the recommendation of the Minister of Labour, pursuant to the Canada Labour (Standards) Code, is pleased hereby to make the annexed "Canada Labour Code Regulations (General)".

REGULATIONS UNDER THE CANADA LABOUR (STANDARDS) CODE.

Short Title.

1. These Regulations may be cited as the *Canada Labour Code Regulations (General)*.

Interpretation.

2. In these Regulations,

- (a) "Act" means the *Canada Labour (Standards) Code*;
- (b) "Director" means the Director of Labour Standards, Department of Labour, Ottawa; and
- (c) "wages" means wages within the meaning of the Act.

Application to Professions.

3. The Act does not apply to the medical, dental, architectural, engineering and legal professions.

Hours of Work.

4. Except as provided in section 5 of these Regulations, where the nature of the work in an industrial establishment necessitates irregular distribution of hours of work of any class of employees with the result that

- (a) those employees have no regularly scheduled daily or weekly hours, or
- (b) the employees have regularly scheduled hours but the number of hours scheduled differs from time to time,

the hours of work in a day and hours of work in a week may be calculated for the employees within the class as an average for a period not exceeding 13 consecutive weeks, subject to the following Rules:

- I. The standard hours of work (being the hours for which the regular rate of pay may be paid) of an employee within the class shall not exceed 520 hours if the averaging period is 13 weeks or, if the averaging period selected by the employer is less than 13 weeks, that number of hours that equals the product of the number of weeks so selected multiplied by 40; and the overtime rate prescribed by section 8 of the Act shall be paid for all hours worked in excess of the standard hours prescribed in this Rule, but hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in computing the hours for which the overtime rate is to be paid at the end of the averaging period.
 - II. If the averaging period is 13 weeks, the total hours that may be worked by an employee within the class shall not exceed 624 hours, or, if the averaging period selected by the employer is less than 13 weeks, the number of hours that is the product of the number of weeks so selected multiplied by 48.
 - III. If during the averaging period an employee within the class is granted a general holiday or other holiday with pay on which he does not work or an annual vacation, the number of hours specified in Rule I and in Rule II shall be reduced by 8 hours for every such general or other holiday or day of annual vacation but not more than 40 hours shall be deducted for any full week of annual vacation.
 - IV. For any week in the averaging period in which an employee within the class is not entitled to wages, the number of hours specified in Rule I and in Rule II shall be reduced by 40.
 - V. If an employee within the class terminates his employment of his own accord during an averaging period in effect under these Regulations, he shall be paid at his regular rate of pay for his hours worked during the completed part of the averaging period, and if his employment is terminated by the employer, he shall be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.
 - VI. Any hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in determining the overtime pay that the employee is to be paid on termination of his employment.
5. (1) Where
- (a) the nature of the work in an industrial establishment necessitates irregular distribution of hours of work of any class of employees with the result that
 - (i) those employees have no regularly scheduled daily or weekly hours, or
 - (ii) the employees have regularly scheduled hours but the number of hours scheduled differs from time to time, and

(b) a 13-week period is not sufficiently long to provide for the period in which fluctuations take place,
an employer may average over a longer period than 13 weeks if he establishes to the satisfaction of the Minister that a longer period is necessary.

(2) Where the hours of work of a class of employees are calculated as an average for a period in excess of 13 weeks

(a) the standard hours of work of an employee within the class shall not exceed that number of hours that equals the product of the number of weeks in the averaging period that is satisfactory to the Minister multiplied by 40; and

(b) the total hours that may be worked by an employee within the class shall not exceed the number of hours that equals the product of the number of weeks in the averaging period that is satisfactory to the Minister multiplied by 48.

(3) Where an averaging period has been calculated under this section for a class of employees,

(a) the overtime rate prescribed by section 8 of the Act shall be paid for all hours worked in excess of the standard hours prescribed in paragraph (a) of subsection (2) of this section, but hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in computing the hours for which the overtime rate is to be paid at the end of the averaging period; and

(b) Rules III to VI in section 4 apply in respect of those employees.

6. The employer shall notify the Director that he has adopted an averaging period under section 4 of these Regulations for his industrial establishment, indicating the classes of employees to whom it applies, the number of employees in each class at the time of notification and the periods for which the employer is averaging.

Weekly Rest.

7. Where hours to be worked in excess of maximum hours of work prescribed by or under section 6 of the Act are permitted under section 9 of the Act, the Minister may specify in the permit that the hours of work in the week need not be scheduled as required by section 7 of the Act during the period of the permit and the Minister may prescribe in the permit alternative periods of rest to be observed.

8. During an averaging period, hours of work may be scheduled and actually worked without regard to section 7 of the Act.

Special Employees.

9. (1) An employer may employ a person under the age of 17 years in any office, plant, service, transportation, communication, construction, maintenance, repair or other occupation in a federal work, undertaking or business if

(a) he is not required, under the law of the province in which he is ordinarily resident, to be in attendance at school; and

- (b) the work in which he is to be employed
 - (i) is not carried on underground in a mine,
 - (ii) would not cause him to be employed in or enter a place that he is prohibited from entering under the *Explosives Regulations*,
 - (iii) is not work as an atomic energy worker as defined in the *Atomic Energy Control Regulations*,
 - (iv) is not work that under the *Canada Shipping Act* he is prohibited by reason of age from doing, or
 - (v) is not likely to be injurious to his health or to endanger his safety.

(2) An employer may not cause or permit an employee under the age of 17 years to work between 11 o'clock P.M. on one day and 6 o'clock A.M. on the following day.

(3) An employer who employs any person under the age of 17 years pursuant to subsection (1) shall pay him a wage at the rate of not less than one dollar an hour or not less than the equivalent of that rate for the time worked by him where his wages are paid on any basis of time other than hourly; but an employer may pay a person under the age of 17 years who is being trained on the job at a rate less than one dollar an hour if the lesser rate is permitted under section 10 of these Regulations for the class of employees to which he belongs.

10. An employer is exempted from the application of section 11 of the Act in respect of any of his employees who are being trained on the job if

- (a) those employees are registered apprentices under a provincial apprenticeship act and are being paid in accordance with a schedule of rates established thereunder; or
- (b) the employer establishes to the satisfaction of the Minister that the employees are undergoing training, under the direct supervision of a person fully qualified in the occupation to be learned, in preparation for employment with the employer or elsewhere at a rate of pay in excess of the minimum rate established by section 11 of the Act, and that such employees are and will be paid during the training period at not less than a rate or rates that the Minister considers appropriate for the training period or any parts thereof.

General Holidays

11. For the purposes of subsections (2) and (3) of section 29 of the Act, if an employee's hours of work differ from day to day or if his wages are calculated on a basis other than time, the wages he would have earned at his regular rate of wages for his normal hours of work may be deemed to be

- (a) the average of his daily earnings exclusive of overtime for the days he has worked in the four-week period immediately preceding the general holiday, or
- (b) an amount calculated by a method agreed upon under or pursuant to a collective agreement.

Annual Vacations

12. An employer shall give each employee entitled to an annual vacation at least two weeks' notice of the commencement of his annual vacation unless otherwise agreed between the employer and the employee.

13. Where it is the custom in an industrial establishment in which a person is employed to pay vacation pay on the regular pay day during or immediately following the vacation of an employee, the employer may postpone the payment of vacation pay from the day provided under paragraph (b) of section 17 of the Act to the customary pay day.

14. (1) The Director, if he is satisfied of the existence of exceptional circumstances, may, upon a joint application made to him by the employer and the employee setting forth that because of the existence of exceptional circumstances the employee agrees to waive, with respect to a designated year of employment, the vacation to which he is entitled under section 16 of the Act, authorize the application as a waiver by the employee of his right to the grant of a vacation under section 17 of the Act in respect of that designated year of employment.

(2) Notwithstanding subsection (1), the employer, not later than ten months immediately following the completion of the year of employment referred to in subsection (1) or within such other period as is provided by these regulations, shall pay to the employee vacation pay in respect to that year.

15. The right of an employee to take a vacation with vacation pay to which he is entitled under the Act may be postponed in respect of a designated year of employment in the manner following:

- (a) by filing with the Director a written agreement between the employer and the employee stating that both parties desire to postpone, in respect of the designated year of employment, the taking by the employee of the vacation with vacation pay, and the filing of the agreement shall authorize the postponement; or
- (b) by sending to the Director a written application by the employer requesting because of the existence of specified exceptional circumstances that authority be granted to postpone, in respect of the designated year of employment, the taking of vacation with vacation pay by an employee, and the granting of the application by the Director shall authorize the postponement.

16. (1) An application for approval of a calendar year or other year as a year of employment shall be made in writing to the Director.

(2) The application shall contain the following information:

- (a) the name and address of the employer;
- (b) the calendar year or other year for which approval is sought;
- (c) the reasons for requesting such approval;
- (d) a statement of the present vacation arrangements in effect for employees of the employer; and
- (e) such other information as may be required by the Minister.

(3) The Minister may

- (a) approve the application as submitted;
- (b) approve the application for a definite or indefinite period of time and subject to such terms and conditions as the Minister deems desirable; or
- (c) deny the application.

Board and Lodging and other Remuneration

17. Where board or lodging or both are furnished by or on behalf of an employer to an employee, if the arrangement is accepted by such employee, the amount by which the wages of an employee may be reduced for any pay period below the minimum wage prescribed in section 11 of the Act, either by deduction from wages or by payment from the employee to the employer for such board and lodging, shall not exceed the following amounts:

- (a) for each meal, 50¢ (fifty cents); and
- (b) for lodging per day, 60¢ (sixty cents).

18. For the purposes of calculating and determining wages, the monetary value of any board, lodging or any remuneration other than money received by an employee in respect of his employment, shall be the amount that has been agreed upon between the employer and the employee, but where there is no such agreement or where the amount agreed upon unduly affects the wages of the employee, such amount as may be determined by the Minister.

*Payment of Wages, Vacation or Holiday Pay or other
Remuneration when Employee Cannot be Found*

19. (1) Where an employer is required to pay wages to an employee or an employee is entitled to payment of wages by the employer and the employee cannot be found for the purpose of making such payment, the employer shall, not later than six months after the wages became due and payable, pay the wages to the Minister and payment made to the Minister shall be deemed payment to the employee.

(2) The Minister shall deposit any amounts received under subsection (1) to the credit of the Receiver General in an account to be known as the Labour (Standards) Code Suspense Account, and the Minister may authorize payments out of the account to any employee whose wages are held therein.

(3) The Minister shall keep a record of receipts and disbursements from the Labour (Standards) Code Suspense Account.

(4) Where, upon the termination of three years from the date the Minister received a payment under subsection (1), no claim has been made by the employee entitled thereto for such wages, the amount so held shall upon the order of the Minister become the property of Her Majesty in right of Canada.

Inadequate Records

20. (1) Where an inspector finds that the records made and kept by an employer pursuant to subsection (2) of section 39 of the Act are inadequate, he shall advise the employer of the inadequacy.

(2) Where, on a subsequent inspection, an inspector finds that an employer has not corrected the inadequacy on which he had previously advised, he shall notify the Minister of the failure to keep adequate records and the Minister may, by order, prescribe the manner in which records required under section 39 of the Act are to be made and kept by the employer thereafter.

Notices to be Posted

21. (1) Where an averaging plan is in effect, under these Regulations, in an industrial establishment, an employer shall post, in readily accessible places where they may be seen by the employees of the class or classes affected, notices giving clear information concerning the averaging plan in effect in such industrial establishment.

(2) Where, under the Act or these Regulations, an order, permit or authorization is granted affecting an industrial establishment or a class or classes of employees therein

- (a) the employer shall post, in readily accessible places where they may be seen by the employees of the class or classes affected, copies of such order, permit or authorization affecting such employees; or
- (b) the Minister may order such other means of notifying employees in an industrial establishment of the provisions of an order, permit or authorization affecting them as is, in his opinion, satisfactory in the circumstances.

HOUSE OF COMMONS
First Session—Twenty-seventh Parliament
1966

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

Respecting

Bill No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

THURSDAY, MAY 19, 1966

WITNESSES:

From the Department of Labour: Mr. G. Haythorne, Deputy Minister. *From the Canadian Construction Association:* Mr. A. Trottier, President; Mr. P. Stevens, Director of Labour Relations; Mr. G. H. Durocher, Personnel Manager, Ball Bros. Ltd. *From the Association of International Representatives of Building and Construction Trades:* Mr. R. G. Hill, Canadian Regional Director, International Union of Operating Engineers; Mr. C. W. Irvine, Vice-President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT
Chairman: Mr. Georges-C. Lachance
Vice-Chairman: Mr. Hugh Faulkner
and

Mr. Barnett,	Mr. Hymmen,	¹ Mr. Morison,
Mr. Boulanger,	Mr. Johnston,	Mr. Muir (<i>Cape Breton</i>
Mr. Duquet,	Mr. Lefebvre,	<i>North and Victoria</i>),
Mr. Émard,	Mr. MacInnis (<i>Cape</i>	² Mr. Orlikow,
Mr. Fulton,	<i>Breton South</i>),	Mr. Racine,
Mr. Gordon,	Mr. Mackasey,	Mr. Régimbal,
Mr. Gray,	Mr. McCleave,	Mr. Reid,
Mr. Guay,	Mr. McKinley,	Mr. Ricard,
		Mr. Skoreyko—24.

¹ Replaced by Mr. Boulanger on May 18, 1966.

² Replaced by Mr. Knowles on May 17, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

TUESDAY, May 17, 1966.

Ordered,—That the name of Mr. Knowles be substituted for that of Mr. Orlikow on the Standing Committee on Labour and Employment.

WEDNESDAY, May 18, 1966.

Ordered,—That the name of Mr. Boulanger be substituted for that of Mr. Morison on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

MINUTES OF PROCEEDINGS

THURSDAY, May 19, 1966.

(3)

The Standing Committee on Labour and Employment met this day at 11:15 a.m. The Vice-Chairman, Mr. Faulkner, presided.

Members present: Messrs. Barnett, Duquet, Émard, Faulkner, Gray, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, Muir (*Cape Breton North and Victoria*), Régimbal, Reid, Skoreyko (16).

In attendance: *From the Department of Labour:* Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnston, Director of Labour Standards Branch; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Construction Association: Mr. A. Trottier, President; Mr. P. Stevens, Director of Labour Relations; Mr. G. H. Durocher, Personnel Manager, Ball Bros. Construction Ltd.

From the Association of International Representatives of the Building and Construction Trades: Mr. R. G. Hill, Canadian Regional Director, International Union of Operating Engineers; Mr. C. W. Irvine, Vice-President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada.

The Committee resumed the questioning of the departmental officials under Clause 1 of Bill C-2.

On motion of Mr. McCleave, seconded by Mr. Knowles,

Resolved,—That Mr. Stevens be heard before the Committee before resuming the questioning of the departmental officials.

The Chairman introduced Mr. Stevens who in turn introduced the members of his delegation.

Mr. Stevens made a statement on behalf of the Canadian Construction Association and the Association of International Representatives of the Building and Construction Trades.

The Committee then questioned the witnesses.

On motion of Mr. Émard, seconded by Mr. Knowles,

Resolved,—That the *Canadian Construction Association Schedule of Hourly Wage Rates, Holiday Pay Assessments and Standard Work-Weeks in the Building Trades in Canadian Centres, DEC. 1, 1965*, be filed with the Committee as Exhibit "A".

On motion of Mr. Régimbal, seconded by Mr. Gray,

Resolved,—That the Submission by the Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association to the Minister of Labour on the Fair Wages and Hours of Labour Act (*Appendix 3*), the April 29, 1966 letter to Members and Senators (*Appendix 4*), and the letter of March 6, 1966, to Mr. Nicholson, Minister of Labour (*Appendix 5*), be appended to today's proceedings.

The questioning of the witnesses being completed, the Chairman thanked Messrs. Stevens, Trottier, Hill and Irvine.

At 1.20 p.m., the Chairman adjourned the Committee until May 24, 1966, at 11:00 a.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

● (11.00 a.m.)

THURSDAY, May 19, 1966.

The CHAIRMAN: Gentlemen, we will now come to order.

If it is the wish of the Committee I think we will proceed with the questioning of witnesses. The agenda provides for the continuation of the questioning of the departmental officials who were here last time. Are there any questions to be directed to the departmental officials?

Mr. McCLEAVE: I have one, Mr. Chairman. I think it was not answered the other day. Perhaps we could resume from there.

I pointed out that the joint submission by the Association of International Representatives of the building and construction trade and the Canadian Construction Association to the then Minister of Labour was dated May of 1965. At page 9 of that submission, which I believe everyone has a copy of by now, there were summaries of some eight recommendations and I would ask the deputy minister to say which were being accepted and which were being rejected when we broke off last meeting.

The CHAIRMAN: Mr. Haythorne.

Mr. GEORGE V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman—

Mr. BARNETT: On a point of order, Mr. Chairman. At a short meeting of the steering committee yesterday, in view of what happened—and I realize you were not here—those of us who were present, in my understanding, reached an agreement with the Chairman that if the representatives of the two parties who submitted this brief were here and available this morning, as far as possible we would defer the questioning of the departmental officers until later in order to first give the representatives of the Canadian Construction Association and of the association of the unions involved an opportunity to present this brief to the Committee with any comment or additional information.

The CHAIRMAN: I think that would be fine Mr. Barnett, but I have an agenda here which provides for the continuation of questioning. Now, if Mr. McCleave is agreeable and the other members are agreeable to do this, we can proceed. If not, and Mr. McCleave is the only one who has a final question and Mr. Haythorne can answer it quickly, we might clear it up. Is it going to be for long?

Mr. HAYTHORNE: Yes, it is a lengthy one.

The CHAIRMAN: Well, Mr. McCleave, would you insist we continue? Is it agreeable.

Mr. McCLEAVE: I hope.

The CHAIRMAN: Well Mr. Barnett, would you like to move that we hear Mr. Stevens, Director of Labour Relations for the Canadian Construction Association as our witness?

Mr. McCLEAVE: I so move.

Mr. KNOWLES: I second the motion.

Motion agreed to.

The CHAIRMAN: Mr. Stevens, would you like to come forward, please?

Mr. P. STEVENS (*Director of Labour Relations, The Canadian Construction Association*): Mr. Chairman, and hon. members, at the Committee's first meeting concerning Bill No. C-2, the Chairman repeatedly referred to me in person. I would like to clarify to the Committee that I merely, in view of the time involvement, happened to be signing a letter to the Chairman the moment the first meeting of the Committee was announced concerning Bill No. C-2, requesting that the two associations which had submitted the joint brief, officially which is now in the hands of members of this Committee, had asked for a hearing on the part of a joint delegation. So, perhaps, to explain the situation may I say I am not appearing as Peter Stevens, Director of Labour Relations for the Canadian Construction Association. I merely wrote a letter to the Committee's Chairman the moment it was known that this bill would be heard by the Committee. We have with us, I am very happy to say, the president of the Canadian Construction Association, Mr. Armand Trottier, from Quebec city, who is city councillor of the city of Quebec. He should have been attending a city council meeting in Quebec this morning. Also, we have with us from the international Representatives of the Building and Construction Trades, Mr. Roland Hill, Canadian Regional Director, Union of Operating Engineers from Toronto. He is also vice chairman of the construction union group. Unfortunately, Air Canada had to cancel the flights into Ottawa this morning due to early morning fog and seven members of the joint delegation were unable to get here.

In addition, we have Mr. Charles Irvine, vice president for Canada from the Plasterers' union; Mr. George Durocher from Kitchener, Ontario, representing the contractors.

The CHAIRMAN: I understand that this is a joint brief.

Mr. STEVENS: This is a joint brief and a joint presentation to this Committee.

Now, we have agreed that we would ask Mr. Trottier first, before making a further statement to the Committee, to say a few words in French.

● (11.15 a.m.)

(Translation)

Mr. TROTTIER: Mr. Chairman, our fundamental objection to this proposed legislation by the Government is that it does not recognize the total remuneration paid at the two ends of the pay scale, as has been actually established by free agreements with regard to the appropriate sector of the industry. The joint

proposals we have presented to the Government are better because in future they would not interfere with free collective negotiations by the imposing of inflexible norms which are artificially and unrealistically imposed by this legislation. As an example of that, we have the Province of Quebec, where certain provisions regarding collective agreements are applied by joint committees and "juridically extended" by decrees extending to the sixteen regions which cover almost the entire territory of the Province. Our Associations therefore feel that Federal construction work in the Province of Quebec, should be regulated with regard to hours of work, rates of pay, services given and so on, which come under the applicable decree. We have often echoed the importance there was for the two groups of meeting together to discuss common problems, and I think we have a very striking example here of the possibility of realizing such a state of affairs. And if I express myself in this way, I should say that the example we are setting here by joining our efforts on such an important problem demonstrates beyond doubt that we have understood the actual nature of the problem we have before us. We have together come to a conclusion, we have arrived at suggestions which are such as to provide satisfaction to the two parties, and yet in fact, we are very much worried at the thought that we might not be heard on this side. That is in brief, what we wanted to put before you at this time.

(English)

The CHAIRMAN: Mr. Stevens, is it your intention to proceed?

Mr. STEVENS: If I may, Mr. Chairman.

Mr. Chairman and hon. members, our two associations very much appreciate this opportunity to appear before the House of Commons Labour and Employment Committee to answer questions on the joint labour-management representations made to the Ministers of Labour during the last twelve months concerning desirable amendments to the Federal Fair Wages and Hours of Labour Act. In addition, our joint labour-management delegation wishes to comment on the Minister's opening statement on May 17, 1966, to this Committee.

As an introduction, we wish to state that our joint brief of May 1965 to the then Minister of Labour was prepared most carefully over a period of five months. This was done particularly because our industry is governed, as members will appreciate, by a unique set of circumstances on labour relations and conditions. It was also done because of the several serious difficulties which the Canada Labour Standards Code had encountered during its passage through Parliament. Committee members will recall that several of the industries to be affected by the originally rigid provisions of this code were found to be governed by industry requirements which were equally recognized as unrealistic for them by organized labour. To substantiate this, we would only refer to the fact that the railway running trades are governed by the mileage run by train crews and not hours of work, and that steamships cannot remain stationary on a Sunday and the need to average out hours of work for some industries, for example, grain elevators.

In view of the representations made by both labour and management at that time, the then Minister of Labour held up the passage of that bill, the

labour standards bill, from October, 1964, until February, 1965. At this time he then presented a number of government amendments to provide for that flexibility which both labour and management agreed was essential if the act was to be able to achieve its commendable objectives and stand the test of time.

Since the act which Bill No. C-2 is to amend applies only to construction, as the Minister has confirmed, our two associations respectively representing the industry at the national level, prepared a joint brief for the then Minister in the hope of helping the avoidance of parallel problems for our industry in the preparation of the bill now before this Committee. We had expected that under these circumstances the government would have found it possible to meet our industry's joint proposals. We were therefore disappointed when we learned of the provisions of this bill. Regrettably, as members will know from copies of correspondence placed before them by us jointly, the Minister found himself unable to respond positively to our subsequent joint representations. We are therefore grateful to him for having this bill referred to this Committee to enable construction labour and management to appear before it to explain their joint position and their joint proposals.

Moreover, we would stress again that our two associations have an historic record of labour-management co-operation at the national level in such matters as labour legislation and standards dating back to 1921 when the first national joint board for the construction industry was established, after the first world war. We would ask who is better placed than our two national associations to speak with authority on the labour standards need of our industry in an act which applies only to construction? Failure of Parliament to heed our joint pleas for amendments to meet our joint needs is to us not only inconceivable in these circumstances but would also indicate the lack of support by hon. members for genuine labour-management co-operation and decry their recognition of the merits of free collective bargaining at the very time when Parliament is giving consideration to Bill No. C-170, an act respecting employer and employee relations in the public service of Canada, as is often asked of us labour and management, by governments and by ministers, this industry is demonstrating here its readiness to accept its responsibilities.

Now, permit us, Mr. Chairman and hon. members, some brief comments on the Minister's statements concerning this bill last Tuesday. The Minister pointed out the government's desire to have this act aligned with the provisions of the Canada Labour Standards Code. He stated our industry had pleaded for an exemption or exclusion from its provisions. This was not to our minds our intention and is not so now. What we are jointly requesting is an up-dated and superior approach to meet current conditions by having construction wage rates and hours of work conform to influencing labour market area practice for the type of construction thereby avoiding interference in the process of free collective bargaining. As an example concerning wage rate determination, we cited our wish to have negotiated employer-paid benefit plan contributions incorporated into "fair wages".

On hours of work, we asked for the elimination of overtime permit procedures and pointed out that for highway and heavy construction at remote or outlying sites current collective agreements confirm the need for differing hours of work. We would add here that on the other hand at some centres in

some trades collective agreements now stipulate a 37½ hour work week which we wish to have equally recognized under the act. Here then we are only asking for very limited flexibility (as accorded by the government's amendments to the Labour Standards Code to other industries last year) so minor that we do not consider it to amount to a request for an "exemption" or "exclusion".

The province of Quebec has long followed the principle of using the prevailing negotiated wage rates, including employer-paid benefits, and hours of work as taken from a collective agreement into regional "decrees" by juridical extension. We have also asked, under this approach, that the four major "types of construction" be given formal recognition in the act. We believe that since this act has not been changed during the last thirty years, your Committee would wish to give our proposals its most careful consideration and take the amount of time this may require, if necessary, at the cost of a minor delay in reporting the bill back to the House. Little of lasting benefit, we believe members will agree, can ever be achieved under conditions of undue rush, even though the conduct of the nation's business needs to be expeditious.

● (11.30 a.m.)

The Minister referred to the need for the government to police sub-contractors. This situation has always existed and is therefore nothing new or recent. In any case both our organizations have long been asking the department to improve its enforcement performance. Our joint brief of May, 1965, had again done this under paragraph 6, Enforcement. Our brief of May, 1965, was only given by us to the then Minister and his department officials but not to anyone else at that time, nor the press. Senators and members of Parliament were only acquainted with it on April 29, 1966. We understand, however, that the former Minister did pass one copy of the brief to one then member of Parliament who had raised a complaint against the present act.

I think, if I recall correctly, Mr. Chairman and hon. Members, the Minister announced it is not yet available. He did express the view that he might—our opposition in May, 1965, a year ago,—might have passed copies of that brief to the press or to other people or members of Parliament. We did not do so; we did not wish to be indiscreet and we are merely wanting to explain to the Minister that there was no press release at the time we submitted the brief, and the only copies that were given out were given to the Minister and officials of the department.

Finally, we would state that we believe our needs would preferably be met by a revision to the act since regulations can be changed by order in council at any time. We would therefore ask the Committee to have Bill No. C-2 referred back to the law officers of the crown in order to have the bill redrafted so that the bill to be reported back to the House will be one assuring the industry of labour standards on federal construction projects which, as a result of free collective bargaining the industry can live and progress with to the benefit of the nation and its economy.

Thank you very much, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Stevens. In so far as that is a joint brief there is nothing further to be added from your point of view.

Gentlemen, any questions?

Mr. BARNETT: I was wondering whether a spokesman for the other party to the brief had anything to add.

The VICE-CHAIRMAN: Does the Committee prefer to hear the departmental reply now? Is that the feeling of the Committee?

Mr. BARNETT: I would like to know if the spokesman for the Association of International Representatives of the Building and Construction Trades had a joint supplementary statement?

The VICE-CHAIRMAN: Is there anything further you wish to say?

Mr. R. G. HILL (*Canadian Regional Director, International Union of Operating Engineers*): No, only to emphasize again that this is a joint brief and we are here together to present our joint submission.

The VICE-CHAIRMAN: Mr. Émard?

(Translation)

Mr. ÉMARD: Mr. Chairman, I am sorry that we did not have time to get ourselves better acquainted with the papers that were distributed this morning. We have too many Committees here as a matter of fact, but if I have understood this thing properly, I think that the two parties involved here are asking for juridical extension of this joint agreement, such as is the case at the present time in the Province of Quebec in that trade is that it, or something like that?

(English)

Mr. STEVENS: The application of the same philosophy which is, we contend, superior to a basic standard of \$1.25 as we have stated, we are not into 37½ hours. We think that we need this for the reasons explained in the brief, namely that contractors bidding on the job should have equal conditions of labour applied to all.

(Translation)

Mr. ÉMARD: I imagine we will have an opportunity later of seeing how this can be implemented. Now, according to what Mr. Trottier mentioned a while ago, I would like to know the number of hours of work. It seems that the number of hours of work prevailing in the construction industry would be 37½ hours, is that it?

Mr. TROTTIER: Not generally, it may happen in those areas where this regional agreement applies that 37½ hours of work is the rule, but what we want is for existing conventions to be respected. Agreements have been arrived at between the two parties, especially over working conditions, where we have what we call juridical extension, where the decrees apply in sixteen regions involved, and we want these conditions to be respected.

Mr. ÉMARD: You also dealt with fringe benefits, I believe. Could you give me an idea of the actual value of these fringe benefits which prevail at the present time within the general agreements you have in the industry? Do you have any value attributed to that?

Mr. TROTTIER: It might vary.

(English)

The VICE-CHAIRMAN: Gentlemen, Mr. Stevens has a document here which he says clarifies some of this. What is the document?

Mr. STEVENS: Mr. Chairman, in addition to our statement we have agreed to present the Committee with copies of our latest available rates for the construction industry from coast to coast. Unfortunately the French copies are not yet available.

This is the situation in our industry, of the 33, I think, or 35 largest centres in Canada in 18 construction trades from coast to coast, from St. John's, Newfoundland, to Victoria, British Columbia. This will very briefly explain to Mr. Émard, for example, the value of fringe benefits, of which the top is listed at 49 cents an hour. Mr. Irvine is the vice president of the union concerned with it.

The VICE-CHAIRMAN: Would the Committee like to have this as an exhibit?

Moved by Mr. Émard and seconded by Mr. Knowles—

Mr. KNOWLES: Is it too large a document to append to our minutes?

The VICE-CHAIRMAN: I think so. It might be up to the committee branch. It might be reduced in size by photographing.

Mr. KNOWLES: We printers can do wonderful things.

Mr. GRAY: We appreciate having the technical guidance of Mr. Knowles. I recall some matter being photographed in the Finance Committee.

The VICE-CHAIRMAN: It has already been considerably reduced. We have a motion to the effect that it be adopted as an exhibit. Does that meet with the approval of the Committee?

Motion agreed to.

(Translation)

Mr. ÉMARD: I am told with regard to fringe benefits, that the highest figure at least would be 49¢ per hour approximately.

Mr. TROTTIER: I mentioned no such figure.

Mr. ÉMARD: Did Mr. Stevens not mention 49¢ an hour for fringe benefits, or 51¢ an hour approximately?

(English)

Mr. STEVENS: At the time this value was taken in December of 1965, it amounted to 49 cents. Perhaps Mr. Irvine from our delegation could answer that.

The VICE-CHAIRMAN: Mr. Émard, would you like to repeat your question?

(Translation)

Mr. ÉMARD: Could you give us an idea of the approximate worth in cents and per hour of fringe benefits paid by you when you have collective agreements?

(English)

Mr. C. W. IRVINE (*Vice President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada*): The fringe benefits cover medical care, SUB plan, supplementary unemployment insurance and a pension plan, and there are union check-offs with that fringe benefit. That is the total sum. It is all part of the wage package and is sent in as one sum to the administrator of the welfare fund; the union allocates the money to its own use. It is all one sum.

(Translation)

Mr. ÉMARD: Mr. Stevens mentioned a while ago that the approximate value would be approximately 51 cents an hour?

(English)

Mr. IRVINE: Yes. The Toronto Local, Local 48, 37½ hour week and it comes as a fringe benefit to 51 cents an hour in 1970.

(Translation)

Mr. ÉMARD: Could you give us a general idea—I know that it might be in that document—of the average salary paid to labourers, under your collective agreements?

(English)

Mr. STEVENS: Mr. Chairman, we are delighted that the deputy minister has agreed to a special study for a Centennial project of the construction industry—a joint project—to study labour-management relations in the construction industry in Canada.

This is to be a Centennial project by a steering committee on which labour and management are jointly represented under the chairmanship of Mr. H. Carl Goldenberg of Montreal. As his contribution, I think I am right in saying, Dr. Haythorne, the Department of Labour has generously agreed to do a depth research for us. We are paying for this in part because Dr. Haythorne's research branch needs strengthening and they are going to have a report for us, to answer Mr. Émard's question, we hope, by September 30, 1967, so that Mr. Carl Goldenberg at that stage can review the finding of some 12 or 13 studies to be done, which have now been allocated. We hope to be able at that time to have some authoritative government information which at this time, unfortunately, we do lack.

The VICE-CHAIRMAN: Is that all, Mr. Émard?

(Translation)

Mr. ÉMARD: One more question. Could you also give us the reasons why you object to the limitations on overtime?

(English)

Mr. STEVENS: Mr. Chairman, hon. members of the Committee, I was present, as you know, on Tuesday last at the first meeting concerning this bill, and Mr. Orlikow, I think your records will show, at that time did refer to 80 or 100 hours' work. Now realistically, and I think Mr. R. G. Hill for example, who

comes from the road building sector of the industry and whose members are mainly heavy equipment operators, will bear me out, as we stated in the statement given to you this morning—our joint statement—that on road building 60 hours is about the maximum and certainly had been on federal projects and in outlying areas. The Department of Labour, very realistically in the past, has been granting permits on application up to 60 hours. We would not dream of going beyond that figure at this time, but you do run into problems, and I am sure Mr. Hill could speak further to this, of camps and keeping people in camp, getting them, for example, from Vancouver to go to Peace River or Columbia River to build these dams if you can offer them only 40 hours of work when they can get all the work they want right in Vancouver where they can live with their families. There has to be some sort of attraction to move our labour force—an economic attraction—to move our labour force to those areas when we need them for the projects. Perhaps Mr. Hill could supplement my answer, Mr. Chairman.

The VICE-CHAIRMAN: Is there anything further you would like to say to that, Mr. Hill?

Mr. HILL: Yes. We have no objection to the number of hours except that we are stating that the influencing agreements should determine the situation in respect of the hours. This also includes the overtime premiums that might come about by the negotiated rate and premium rates in connection with the agreements covering these areas.

(Translation)

Mr. ÉMARD: If I have understood you properly, you do not intend to ask that overtime be eliminated. It is not a matter of removing double time or time and a half, it is just limiting it, is it not?

Mr. TROTTIER: Under existing conventions.

Mr. ÉMARD: Thank you very much.

(English)

Mr. GRAY: First of all, I would like to say it is impressing to see this joint presentation by labour and management and this apparent unanimity of point of view. Perhaps it is an omen for other presentations along these lines of other segments of the Canadian industrial sector. This may have been touched on at the last meeting which I, of course, had to leave a few minutes before its adjournment to go to another meeting; but just for my own benefit perhaps someone could explain to me the distinction between the association of international representatives of the building and construction trades and the unions themselves covering the particular trades.

Mr. HILL: The association is really a voluntary association of the top ranking officers of the building trades organizations.

Mr. GRAY: Well is it possible then that the building trades unions themselves, different crafts, might have different points of view on this from the international representatives?

Mr. HILL: No, we are speaking generally for each individual organization by representation in that association.

Mr. GRAY: Is it customary for the building trades to come forward through this association rather than through the unions themselves, the president speaking for the particular union or unions.

Mr. HILL: It has been done in a number of instances—it has been done possibly in a provincial area more than in a federal area.

Mr. STEVENS: Mr. Chairman, perhaps I can supplement this. For example, we referred in our statement this morning to the existence since 1921 of the national joint board, and it is this organization's representatives who spoke for the building trades, for example, during the war period, when it became a question of controlling labour standards and working conditions in that vital time. It was this association which manned that board.

● (11.45 a.m.)

Mr. GRAY: I do not want to imply that I am attempting to derogate from the authority and the prestige of the Association of International Representatives of the Building and Construction Trade, but I would not want to inadvertently see a situation arise where the unions themselves through their executives would come forward and say we have a little different point of view than some of our international representatives. Does this possibility exist?

Mr. HILL: I suppose in a free and democratic country this could exist but we cannot preclude that possibility. But, generally, as I said, we are speaking for and on behalf of our individual organization through this collective association.

Mr. GRAY: Now do not misunderstand the point of view which is implied in my question. I feel it would be useful for the Committee to understand the status both of the management and the labour side represented before us today.

Mr. STEVENS: Mr. Chairman, might I perhaps supplement that from our side. We have some 90 odd affiliated organizations in the Canadian construction association of whom some 50 become involved from time to time in labour matters. It was five months before this joint brief was presented to Mr. MacEachen in May 1965, and one reason it took this long was that once we had agreed on a joint text acceptable to our group it had to be taken to a meeting at which not only a subcommittee from that group but the full 19 building trade unions were represented. For our part, we circulated it and gave our people a month to study the subject to let us know if they had any objections. I am able to say that not one group on the management side objected in any way, shape or form. And, it takes a lot of doing, as you gentlemen as Parliamentarians will appreciate, to get everyone on one united side.

Mr. GRAY: You should teach us some of your techniques.

Mr. STEVENS: One other thing I would like to state Mr. Chairman, in reply to Mr. Gray's question, is that this is about our fifth or sixth joint presentation to government be it the federal government or a provincial government at the national level in the last three or four years, since we really started to work together in those fields where we do not have strikes. We have some strikes right now and this is why some of the union and management representatives cannot be here today.

Mr. GRAY: Your reference to provincial governments leads to my next area of questioning.

Have you gone to any of the provincial governments and asked to have your industry exempted from their minimum wage and hour standards?

Mr. STEVENS: Mr. Chairman, this situation varies from province to province. Our brief indicates, in its reference to the province of Quebec situation for example, that we do not have a problem of this nature in the province of Quebec. The Department of Labour for federal construction jobs has very properly—Mr. Harris Johnson, the director for Quebec certainly applied the wage rates as they were stipulated in the decree. In Manitoba for example, labour management co-operated at the provincial level a couple of years ago to produce a re-writing of what was the Fair Wage Act of Manitoba, I think it was and it is now a new act called the Construction Labour Act, which came into force last summer or thereabouts. It is a joint committee of labour and management chaired by Professor Harry Woods of McGill University. They worked with the deputy minister in the province, Mr. Douglas Scott, to bring about this legislation. Parallel to this, the hon. Mr. Justice Bora Laskin some three or four years ago, chaired an inquiry on the Industrial Standards Act for the government of Ontario. At that time recommendations were made concerning the application of the Industrial Standards Act to our construction industry.

Mr. GRAY: In Ontario there are minimum standards of wages and hours?

Mr. STEVENS: Yes, for example the Ontario Industrial Standards Act, which is not a minimum standards act across the board such as the Labour Standards Code. The Industrial Standards Act, say, in this city at the moment, applied to the carpentry trade in the Ottawa region, sets the union rate as the rate for construction work in the carpentry trade in the Ottawa region.

Mr. GRAY: But there is still the provincial board is there not? Your industry is not exempt from the provincial minimum wage.

Mr. STEVENS: This is \$1.25 and this is why we this morning in our statement said we are for asking for a superior approach for our industry.

The CHAIRMAN: Have you a supplementary question?

Mr. MACKASEY: Well it is supplementary because Mr. Gray mentioned the province of Manitoba. Mr. Stevens, is there any standard in the hours worked per week in the heavy construction industry?

Mr. STEVENS: Yes, it varies. There are three wage boards in Manitoba for the construction industry. On building construction in Winnipeg it is 40 hours and our schedule, now in your hands, lists that for all trades, I think you will find.

The rural district, which is outside the greater Winnipeg area, provides for a 48 hour week for building construction. The third board, which governs road building, Mr. Mackasey, provides for I think, 112 hours over a two week period, subject to correction by the Department of Labour legislation bounds. I am speaking now without reference to the relevant acts and I am sure you will appreciate that.

Mr. MACKASEY: I will pursue this a little further but I just wanted to point out, Mr. Chairman, that in Manitoba they do have a set number of hours which is basically what our bill is doing.

Mr. GRAY: What I am trying to find out, sir, is this. Am I right in saying there is no province in Canada without some form of basic minimum applied by provincial law for wages and hours of work which applies equally to every segment of industry perhaps with the exception of agriculture.

Mr. STEVENS: Mr. Chairman, I am not a lawyer and I am not an authority such as Miss Lorentson is on labour law. But, I would venture to say that what Mr. Gray says is basically correct except perhaps for Prince Edward Island, and you will appreciate I am speaking from memory and without reference. I think there is now minimum standards legislation in Newfoundland which is fairly recent, I believe. However, our whole philosophy in this joint approach, Mr. Chairman and hon. members, is that \$1.25, as you can see from evidence filed, is not enough to establish equitable tendering conditions for all contractors bidding federal construction contracts, which is all that is at stake in this piece of legislation. This is why I would repeat—and I think you will endorse this Mr. Hill—that we are asking for a superior approach, gentlemen, because in our industry this will create labour harmony and not labour conflict; this is what we want and this is why we are working together.

Mr. GRAY: Well, I appreciate the spirit with which you are putting this forward but what I find it difficult to understand at the moment is why you are coming to the federal government asking for something for which you are not asking the provincial governments.

Mr. STEVENS: We have.

Mr. GRAY: Have you got it?

Mr. STEVENS: The Construction Wage Act changes in Manitoba, for example, give us that flexibility and the improved situation—

Mr. GRAY: Is it a flexibility with no floor?

Mr. STEVENS: Oh, in Manitoba there is a floor.

Mr. MACKASEY: There is a floor. But the changes you are speaking about would not remove the floor.

Mr. STEVENS: The change, for example, in Winnipeg, you see—you will have what you see on the schedule, and this is what we are asking for, yes.

Mr. GRAY: If I may proceed, I understand what you are asking for if Parliament accedes to your request, is that there will be no floor for your industry except what may be created by individual collective bargaining. Is that right?

Mr. STEVENS: Well, from our point of view it would certainly be acceptable, Mr. Gray.

Mr. GRAY: Well I just wanted to understand.

Mr. STEVENS: No, we are not asking for an exemption in any way, shape or form and we would be perfectly happy to see some sort of a clause defining fair wages which says with a minimum of so and so, of \$1.25, which the bill provides for, and which shall not be below, right. Define the wages and then say we shall not be below \$1.25.

Mr. GRAY: Is that not what the bill says?

Mr. STEVENS: Not with regard to the fringe benefits.

Mr. GRAY: In other words, you are not opposed to the concept of a floor below which arrangements cannot go even though both parties in collective bargaining may be willing to go below it. You are not opposed to that principle?

Mr. STEVENS: No, Mr. Gray. We had a session this morning before we appeared before you to review our situation. The lowest rate we know now is in Prince Edward Island, I think I am right in saying, which is in the region of \$1.44 for construction labourers, that is, basic common labourers.

Mr. GRAY: You accept the principle that there should be a floor imposed by law below which the parties cannot go even though they are willing to bargain collectively and come to an agreement for some lower point than the floor?

Mr. HILL: I would say basically this is the concept but we are not precluding that there may be some places at the moment that we are not aware of where some of these things may be arrived at which might be less than what the suggestion is. But, again, basically our position is that we are asking recognition of the total labour cost factor which might be involved in freely negotiated agreements.

The CHAIRMAN: Gentlemen, may I just point out there are no reporters present and the transcript is being recorded so would you please speak into your microphones. Is that all, Mr. Gray?

Mr. GRAY: No, I am just starting.

The CHAIRMAN: I want to be careful on these supplementary questions. I have Mr. Knowles, Mr. Muir and Mr. McCleave ready to speak. I think Mr. Muir probably has a supplementary question.

Mr. MUIR (*Cape Breton North and Victoria*): Mr. Chairman, I have only two short questions. I have another appointment at 12 o'clock and I think it is almost 12 now. Would the other gentlemen yield because I will be through in a very few seconds.

Mr. GRAY: As a matter of principle I want to say this idea of supplementary questions can go too far and it applies to myself interrupting someone else, as well as someone interrupting me.

Mr. MUIR (*Cape Breton North and Victoria*): This is not supplementary.

The CHAIRMAN: Is it agreeable that Mr. Muir proceeds?

Some hon. MEMBERS: Agreed.

Mr. MUIR (*Cape Breton North and Victoria*): Thank you, gentlemen. I just wanted to pinpoint one or two things while Mr. Stevens is here. May I ask you, Mr. Stevens, in voicing opposition to this Bill C-2, are you speaking for the Cape Breton Island construction association and contractors association?

Mr. STEVENS: To the best of my knowledge, this brief as I mentioned a short time ago, was checked with some 50 affiliated organizations which deal with labour matters in the construction industry across Canada and you will see Sydney listed in our rate schedule, Mr. Muir.

Mr. MUIR (*Cape Breton North and Victoria*): Yes, I see it.

Mr. STEVENS: And, you will find that our association, which I think is headed up by Mr. Fred Stevens of Sydney, has given its endorsement to our submission.

Mr. MUIR (*Cape Breton North and Victoria*): I assume then they are absolutely opposed to it. Now, may I ask the union representative this other question. Mr. Hill, are you speaking for the unions involved on Cape Breton Island?

Mr. HILL: I can only answer this particular question in relation to my own organization at the moment, because I have just come back from the Maritime area where I discussed these problems with my own organization down there. They are fully in accord with our position in this matter. We are in the heavy construction and highway field—the operating engineers. These are equipment operators in the construction field.

Mr. MUIR (*Cape Breton North and Victoria*): You are stating then that the unions on Cape Breton Island are opposed to this bill.

Mr. STEVENS: To the bill, yes.

Mr. HILL: To the bill.

Mr. STEVENS: Not our brief.

Mr. HILL: They are in accord with our position as we are advancing it.

Mr. MUIR (*Cape Breton North and Victoria*): That is all Mr. Chairman. I want to thank the gentlemen for giving me this opportunity.

The CHAIRMAN: Now, Mr. Gray do you want to continue further.

Mr. GRAY: I will not take too much longer. I know there are other members who want to ask questions.

Did I understand you to say before the last member asked you some questions that you would be willing to see in your industry contracts providing for wages below \$1.25 an hour?

Mr. STEVENS: Far from it. We stated that to the best of our knowledge at the moment, Mr. Hill having just come back from the Maritimes, that \$1.40—and the record will show this Mr. Guay—is the minimum rate in our industry in Canada today for common labourers.

Mr. GRAY: Did I understand you to suggest to the Committee that you would be willing to see collective agreements calling for more than 40 hours a week with the exception of special circumstances such as urgent highway projects and that sort of thing?

Mr. STEVENS: Mr. Chairman, I would like to ask Mr. Roland Hill, the Canadian Regional Director of the operating engineers who are the heavy equipment operators, to explain the problems which arise in this sector of the industry, which I would ask the Committee to please note. It very rarely really affects federal construction. There are some highways in national parks; the Banff Jasper road was subject to this. There are some runways at airports at times, and military installations. But, apart from that there is virtually very little. Most federal construction goes from the erection of a post office to a major prison or a national art centre.

Mr. HILL: Well, what we are suggesting, Mr. Chairman and members, is that the position in the bill recognize those agreements that we negotiate freely, even if it includes in the agreement a clause for a 50 hour work week. If there are other contingent factors—

Mr. GRAY: For an 80 cents an hour wage rate.

Mr. HILL: We have no agreement for an 80 cents an hour.

Mr. GRAY: If you did have one you would want us to accept that too.

Mr. HILL: No. We have a floor which has been negotiated in most instances—and I am talking now of heavy and highway—that is recognized on a provincial basis. This is again by virtue of an agreement covering a complete provincial area. We are asking that the recognition that is obtained in those agreements be the position that is recognized by the federal government.

Mr. GRAY: In other words, you are willing to accept a floor imposed by statute in the provinces but not in federal government contracts?

Mr. STEVENS: We have said, Mr. Gray, and the record will show this, repeatedly here—I have said it and Mr. Hill has endorsed it—that we have no objection to a fair wage definition which gives \$1.25 as a floor. We have no objection whatever. There is no question of talking about 80 cents here from our point of view, Mr. Gray.

Mr. GRAY: What about 40 hours a week?

Mr. STEVENS: The bill now provides for 40 and up to 48 hours without permit on overtime.

Mr. GRAY: And in excess of that with permit.

Mr. STEVENS: Right.

Mr. GRAY: Well, Mr. Stevens, what is your problem? If this bill permits you to have better provisions freely arranged by collective bargaining agreement and if there is a very flexible provision for the issuing of permits to carry out emergency work or work because of special weather conditions, with the exception of the definition of what goes into \$1.25 which I have not touched on yet, does this bill not meet the very useful points you brought forward?

Mr. STEVENS: No, Mr. Chairman. Unfortunately, Mr. Gray, it does not because we are asking for a superior approach. Let us make this clear on the record once again; we are asking that if this bill were to be applied and were to be passed by Parliament as it now stands, this, gentlemen, would amount to discrimination and variation between unionized contractors and non-unionized contractors.

Mr. GRAY: How is that?

Mr. STEVENS: Because the unionized contractors would have certain established conditions which may be \$1.40 and here they could bid on \$1.25.

Mr. GRAY: Well, as I understand the bill—

Mr. STEVENS: This is our problem. Everyone in our industry has to be able to bid labourwise.

Mr. GRAY: Mr. Stevens, I may have misunderstood the wording of this bill but I understand there still has to be a fair wage determination, even with the

floor. And if there is a fair wage determination and it fits the conditions in the area arrived at by collective bargaining then that is what is going to apply. Do you disagree with that?

Mr. STEVENS: Yes. The problem arises very largely in the area of fringes, for example. I think perhaps Mr. Hill should say something on this.

Mr. HILL: Well, when we talk about heavy and highway, the change in construction, the approach, the type of construction that is going on today where you have bridges and approaches, requires specialty contractors. They are now appearing in the heavy and highway field and their relations—and I am talking now about the employees—are governed by the contract that exists in that particular area they come from. A good example of this is that a number of years ago when Cold Lake, the air force base north of Edmonton, was being built—the steel was erected by the Canadian bridge people out of Windsor—the Canadian bridge people had to work in accordance with the conditions under the agreement. They differed totally from the wage schedule which was issued by the department.

Now, it just so happens there was no conflict in that area simply because it was a specialty contractor who was able to do that as opposed to maybe several people bidding on that type of work. This is the sort of thing we want to eliminate.

Mr. GRAY: I am just about finished. Do you not have the same situation now where the Department of Labour can make a fair wage order which differs from your particular collective agreement because they take a survey covering more than your agreement?

Mr. STEVENS: Yes, but let me give you another demonstration Mr. Gray.

Mr. GRAY: There is no difference, is there?

Mr. STEVENS: There is a difference, Mr. Gray, I will give you another example if I may. The difference Mr. Chairman is this. For example, in the present reading of the bill the definition of fair wages is set in the district. Our problem, we said in our statement, is in the influencing labour market area. This is where a difference can arise Mr. Gray.

Mr. GRAY: This wording has existed in the bill since 1935.

Mr. STEVENS: Right, and the bill comes up every 30 years maybe for revision, you see. This is our problem.

Mr. GRAY: You were able to live with this phraseology for 30 years.

Mr. STEVENS: Times change.

Mr. GRAY: Now one final point. I gather that you would accept \$1.25 if the definition was changed to include fringes. Is that right?

Mr. STEVENS: And influencing labour market areas. The committee clerk has a copy of our statement. There are one or two very minor changes that we will be glad to give you. I will let him have a corrected copy of it.

Mr. GRAY: What effect would this have on the smaller contractor?

Mr. STEVENS: We feel that the interpretation of influencing labour market areas has been on the whole very good. But, we have had major problems

nevertheless, on specific projects. For example, if you are going to build a \$50,000 post office in Flin Flon you probably are going to be using a local contractor and also local labour. The local labour rate can cover that situation perfectly well. On the other hand, if you put a prison into Cowansville, Drumheller or Matsqui, or if you are putting a DEW line up north, you are going to have to set conditions which will not be anything like the local applicable situations. This is why we said in our statement here to you, Mr. Chairman and hon. members of the Committee, that we are concerned with the influencing labour market area for the type of construction. Our original brief featured four types of construction: residential, minor commercial, the post office type of thing, and major building construction, the type of thing that goes up in Ottawa, highway and heavy construction, runways, roads in national parks, the causeway in Prince Edward Island, and industrial maintenance of such in which at the moment, the federal government is not yet involved, but conceivably with the changes in times over a period of 30 years might become involved in.

Mr. GRAY: Is not the trend in industry generally in all types of work to have minimum standards imposed by law whether provincial, federal, state or local depending on the country you are talking about?

Mr. STEVENS: We would like to have more in order to maintain labour peace in this aspect in our industry, more than minimum standards, as we do have in the province of Quebec under their legislation.

Mr. MACKASEY: What is the problem of not receiving minimum if you want more than minimum.

The CHAIRMAN: Just a moment. I think we have to watch this because there are people scheduled before you.

Mr. GRAY: I wanted to ask something about possible problems of putting fringe benefits into the minimum wage, whether it is \$1.25 or what have you. Now, fringe benefits of medical plans, welfare benefits and so on is usually handled under a trust type of plan.

Mr. STEVENS: It varies, Mr. Gray.

Mr. GRAY: How many individual arrangements of that type would you think exist in Canada?

Mr. STEVENS: I have not counted them on the wage schedule which has been filed as evidence before the Committee but there are quite a few additions to it. Since December 1, 1965 Windsor has settled with additional fringes coming in. Montreal has settled after a four or five weeks strike. So, we do have plenty of facts, gentlemen. But, we also see our common point of good for the industry.

Mr. GRAY: But, the payments in question which go to make up what are known as fringe benefits, are not made directly to the employer, are they?

Mr. STEVENS: The employer?

Mr. GRAY: By the employer, I should say.

Mr. STEVENS: They are employer paid.

Mr. GRAY: They do not appear on the payroll record?

Mr. STEVENS: Yes, they go through the contractor's books and he has to take them into consideration when he bids and estimates his labour costs.

Mr. GRAY: What are they on? I think I will go into that later on. I just want to say, in conclusion, that your very helpful comments in reply to my questions, sir, seem to indicate to me up until now that the bill is designed to follow the principles you have in mind.

Mr. STEVENS: It does not give us enough, and that is our problem. That is why we are here.

Mr. GRAY: There is a minimum and then you have flexibility to do what you want above it.

Mr. STEVENS: We would like to see some of this spelled out in the act for the protection of labour-management basic peace in this area, which is vital to the construction industry.

Mr. GRAY: Thank you.

Mr. KNOWLES: Mr. Chairman, like Mr. Gray, I have found time to look over this chart and I find it very interesting. It certainly includes a good many wage rates and conditions that are a credit to your union. However, may I first of all say, unless my eyes have not seen it, that I see only two examples of a wage rate of less than \$1.25 an hour. According to this chart, December 1, 1965, labourers at Moncton had a rate of \$1.00 to \$1.25 and labourers at Fredericton had a rate of \$1.05 to \$1.25 an hour. I do not find anywhere else in the charts anything below \$1.25. I find this amount in a number of places but I find many figures going to \$3.00 and \$4.00 an hour. Congratulations. May be even these figures—

Mr. STEVENS: Out of date.

Mr. KNOWLES:—have been improved. So, you are now able to say that you do not have any workers anywhere in Canada—

Mr. STEVENS: We do not think so, to the best of our knowledge.

Mr. KNOWLES:—working for less than \$1.25 an hour. So, the minimum wage rate spelled out in the bill is really no problem to you at all.

Mr. STEVENS: Absolutely and precisely, Mr. Knowles.

Mr. KNOWLES: And even the suggestion that the value of fringe benefits be included—I think that is a legitimate request—would not affect this question of the minimum wage. Your employees are getting at least \$1.25 an hour even before they count fringe benefits. Now, let me look at another side of it. I was intrigued by your statement that you have some agreements for 37½ hours. Again, I am aware of the fact that this document is four or five months out of date, but I find the figure of 37½ hours in only two places on this whole large page. I find that electricians in Hamilton are to get a 37½ hour week in July, 1968 and that electricians at Vancouver are to get the 37½ hour week in April, 1967. But, I do not find it anywhere else.

Mr. STEVENS: Mr. Chairman, may I supplement that. Mr. Irvine, the vice president for Canada of the plasterers union, stated that by 1970 the plasterers in Toronto will have a 37½ hour work week. That is not reported there be-

cause we do not go that far forward. The table just is not big enough. It has had to be photographed by the printers and reduced to a reasonable size. The sheet metal workers will have it very early next year in Toronto.

Mr. KNOWLES: Do any of your agreements provide for the 37½ hour week at the present time?

Mr. STEVENS: I think they are all contractually committed in three to five year agreements.

● (12.15 p.m.)

Mr. KNOWLES: But at the present time—

Mr. STEVENS: This is the situation we will be facing.

Mr. KNOWLES: But at the present time you do not have any enjoying the 37½ hour week?

Mr. STEVENS: We are not aware of any instances where the 37½ hour week is effective, but there are agreements in effect which provide for the reduction of the hours of work to 37½ during the term of the contract.

Mr. KNOWLES: Just as in the case of these I have noted for the electricians at Hamilton and Vancouver?

Mr. STEVENS: Mr. Knowles, I would advise you that the industry is facing a very strong demand, from the carpenters at this very moment for a 35 hour work week in Vancouver, which covers the whole of British Columbia and a situation may be arising before very long where the union will be in a position to carry out a legal strike.

Mr. KNOWLES: I do not need to take any time to say that I approve of that. But when I look over this chart I am concerned at the number of places where I see the figures of 44, 48, 50 and then places where it runs 40 to 60, and figures of that sort. In other words, it seems to me that though you have no problem with the legislation with regard to the minimum wage, apparently you do have a problem with regard to the maximum number of hours of work per week.

Mr. STEVENS: Mr. Chairman and Mr. Knowles, problems arise in a few areas, but there are not too many; and there are certainly not many at 50 hours left; and you have to bear in mind that this is out of date.

The provinces, I think, through the influence of the Labour Standards Code, have been making rapid changes in the last two or three years in this regard, and some of these changes are still underway right now. We are looking at the next 15 to 30 years ahead. This act has not been amended for a period of time—not since 1935, I think the minister stated.

Our problem here is also one of, say, the labourers union—and Mr. Roland Hill should be the one to really speak to this, rather than myself—but the problem can arise where the contractor has a federal job in one place and he also has other work. This would mean that by transferring, say, a labourer who has a 44 hour work week to a federal job, his take-home pay would be cut for the weeks he would be working on the federal project. The contractor has not estimated his labour costs on the basis of a 40 hour week, but on a 44 hour week, which is his normal way of operating, and each worker has become used to that minimum take-home pay. Now, Mr. Hill, I am sure, can supplement—

Mr. KNOWLES: It just so happens that some of our amendments to the Labour Standards Code have been supported in the House.

Mr. HILL: This position is recognized (at this point the microphone in front of the witness was disconnected for ten seconds) were related or accepted by the provincial areas by that agreement. So that there are occasions, recognizing in the position again mostly because of weather, of extensions of hours really beyond the 40 or 45. But, again, there is a minimum in there in which straight time can be worked, and beyond that there is the maximum hours which are regulated by the provincial authorities, which by the premium contractors are recognized in accordance with the agreement.

Mr. KNOWLES: Mr. Chairman, it seems to me that we are close to the problem here, and it also seems to me that there is no point in our having this questioning or discussion unless we do get right to the nub of the thing.

I do not need to take any time to stress my connection with the labour movement, but I think we should be facing this fact that your problem seems to be the hours of work per week now. I mean, your goal is our goal, to get the week shorter five, ten or fifteen years from now, so that this 40 will be a maximum rather than a minimum. But I hope you see the problem you face us with in Parliament, in suggesting that we should somehow break that ceiling. We have been trying in Parliament, in response to the clamour of the labour movement, to get a standard that would protect the workers.

I wish you would explain a little further what you mean by this superior approach—and I will give you a minute to think up your answer. Legislation of this kind sets minimums; it does not make illegal collective agreements that achieve better standards. You can, in collective agreements, get \$3 and \$4 an hour and you are not breaking the \$1.25 law. If you can get agreements for 37½ hours, you are going better than the law and nothing in the law prevents you from doing that.

An hon. MEMBER: Twenty hours?

Mr. KNOWLES: Yes. It is around this building that we break these laws more than anybody, but that is our fault.

But if you are asking us to amend the law in such a way that you can have work weeks that are longer than what we are providing, please tell me, as a friend, how you call that a superior approach?

Mr. STEVENS: Mr. Knowles, I think you have the reputation of being an extremely careful man. We have presented this, I think, to the Committee in the statement which I read at the start. Our superior approach lies in several areas, I suggest. For example, one of them is, of course, the recognition of the 37½ hour work week where it will exist. This, I think, is superior and you will readily agree.

Mr. KNOWLES: We support it whole heartedly.

Mr. STEVENS: Fine. The second area is the fringe situation. This, we feel, is superior. The changes we propose concerning the wages current for work and the character, where we would prefer to see type of construction defined in the influencing labour market area, for the type of construction, will be superior for the industry.

Mr. KNOWLES: If I may interrupt for a moment: Superior if the result is a better deal for the workers. But is it superior if it results in a 55 or 60 hour work week?

Mr. STEVENS: I am talking only about fringe benefits at this point, Mr. Knowles. No, I am sorry; I had finished with fringe benefits. Could you repeat your question?

Mr. KNOWLES: You were talking about the influencing conditions in an area and I thought you were talking about them in relation to the hours of work. You said that it was a superior approach if you get 37½ hours. Now, I am asking you is it a superior approach if, because of the influencing conditions in the area, you have an agreement of 54 or 55 hours.

Mr. STEVENS: No, we do not, and this is not the point, Mr. Knowles. The point is that the prison in Drumbheller, the prison at Matsqui, the prison at Cowansville—this type of project—is the problem; the type of thing Mr. Hill has spoken about, of structural steel going up at Cold Lake, 300 miles or so north of Edmonton. This is where the problem arises and it has arisen from time to time. At that time I think the labour representatives made representations, perhaps, to the deputy minister.

To answer your point further, the question of the longer work week arises with the labourers, I think you will find, and it arises in some earth moving trades from time to time. They have been coming down very considerably in collective agreements, Mr. Knowles. If I showed you the parallel table of 15 years ago you would see a vast difference in hours of work there. But the flexibility which we need for equitable bidding conditions between unionized contractors and non-unionized contractors, and with which Mr. Hill is very concerned within our area, is a flexibility which I would put parallel to Mr. Barnett's point at the last meeting, or the minister's point, concerning the tow boat situation. You did—and we stated this this morning—have to make some more flexible adaptations to the Labour Standards Code in relation to the railway unions, for one, where you have got mileage for running crews operating, and we are merely asking for that flexibility so that Mr. Hill can live with this as well. We do not create friction between labour and management in an area where we feel there ought not to be any.

I hope I have answered Mr. Knowles' point but maybe Mr. Hill should supplement my answer.

The CHAIRMAN: Before Dr. Haythorn speaks, I would just like to draw the Committee's attention to the fact that we are now right down to our quorum. The meeting should continue until 1 o'clock, and if we are to come to a vote on anything it is imperative that we maintain our quorum; but the last member of the quorum was about to leave at 12.30.

Mr. McCleave, Mr. Barnett and Mr. Mackasey have yet to speak. Is it the feeling of the Committee that we should try to get leave of the House to sit this afternoon to complete our work on this? If so, then the necessity for maintaining our quorum at this point is not important.

Mr. MACKASEY: Mr. Chairman, knowing the mood of the House, we are going to waste half of the afternoon and get a lot of bad and undeserved publicity if we ask for permission to sit during the hours of the House.

I think what we ought to do at the moment, due to the fact that someone is leaving, is to send out a messenger to find one of the 13 absentees. There are four committees going on at the moment. It is quite conceivable that certain members who are in other committees where the quorum is not quite so important or so vital, may be good enough to come in and complete the quorum, and I will volunteer to go and do this. The problem is, Mr. Chairman—

Mr. KNOWLES: That is up to you.

Mr. MACKASEY: The point is simply this, Mr. Chairman, that it is imperative that we get this bill to the House of Commons next week and time is of the essence, and I think we should make every effort to keep a quorum here until one o'clock and then rediscuss your problem at one o'clock.

The CHAIRMAN: Now, just a moment. There is not much point in discussing—

Mr. GRAY: I want to say something off the record. There is no reason why we cannot continue. Let me put it this way; There are enough people here with questions to utilize the time until one o'clock. I would be surprised if these people could finish their questioning and answers back and forth before one o'clock. Some very pressing points have been raised. I am speaking off the record here, and this can be straightened out by the clerk and the chairman when they go over the minutes. You do not have to notice the lack of a quorum unless the point is specifically raised. I think Mr. Knowles will not disagree with me. Certainly to that extent we can continue our very interesting discussion until our usual adjournment time.

Mr. KNOWLES: You do not anticipate a vote in the Committee today, do you?

Mr. GUAY: I do not see how we can when there are other members who have questions to ask; and I am sure there will be other comments from the departmental officials and so on.

The CHAIRMAN: I am happy to yield. I was not trying to pin it down to finality; I just wanted this discussion, and it has been very useful.

Mr. STEVENS: Mr. Chairman, there is one point: Mr. Hill would like to have recorded that everything I have said he endorses, particularly on the point which Mr. Knowles so validly has raised.

Mr. HILL: Yes; I want it to be clearly understood that we are not asking that we be allowed to work more hours simply because of this particular position. Again, we emphasize that all we are suggesting is that they recognize the agreement that exists in this area.

Mr. GUAY: Are you worrying about more hours?

Mr. KNOWLES: Don't spoil it for everybody!

Mr. HAYTHORNE: Mr. Chairman, I have just a very brief comment on Cold Lake because it has come up two or three times.

I happen to be very familiar with the situation which was developing in Eastern Alberta at that time. We were under considerable pressure to be sure that the workers in the eastern part of the province had some protection. Now, we can give this protection under our Fair Wages and Hours of Labour Act as it now stands, while, at the same time, not excluding the possibility of bringing

people in from the outside or by any employer or any contractor, entering into an arrangement with his workers, or the union, to pay higher wages than those which are determined as the fair and reasonable wages for that area.

We have all kinds of examples of instances where higher wage rates are paid than those that are stipulated. Therefore, I do not think that this constitutes a real problem. It is possible now, Mr. Chairman, under our present arrangements—and this has been going on for many years—to give the freedom for the collective bargaining, or negotiation, which is being requested in this joint brief.

Mr. KNOWLES: You are taking the position that what the industry wants is there if they look for it?

Mr. HAYTHORNE: It is there now, Mr. Knowles.

Mr. STEVENS: Mr. Chairman, our position on this has been that we feel that there is not enough rigidity in the Act itself, and we would prefer to see it in the act; because this is the type of legislation which does not become acute before the House very often, and we would like to see it spelled out in the act.

This is why we have said that it should not be by regulation which can be changed—we have a minority government situation at this time—and that we would like to see it spelled out the way we have asked for it in the act.

Mr. KNOWLES: Did you say that you would like more rigidity in the act?

Mr. STEVENS: More definition of the points where we have our superior approach, Mr. Knowles.

Mr. HAYTHORNE: This, we feel, does introduce rigidity of the type which we like.

The CHAIRMAN: Are you through now, Mr. Knowles?

Mr. KNOWLES: Yes.

Mr. McCLEAVE: I have just one question, Mr. Chairman. Mr. Stevens, in the summary of recommendations on page 9 of that joint submission of May of last year I believe there are about 8 points dealt with. How many of those points request recommendations that are met in this legislation that we are now considering?

Mr. STEVENS: On page 9 we have (a) amendments to the act on fair wage policies, point number 1: "Revision to avoid conflict with long standing working conditions freely negotiated." I do not think that *per se*, has been recognized by this bill before the Committee in the form in which we would like to see it recognized. 2. "Provision for the incorporation of all freely negotiated employer paid contributions into fair wages." This is not recognized by this bill.

(b) Amendments to the act; section 2(a), replacing character or class of work: I think I am correct in saying, Mr. Chairman, that "by types of construction work" has not been used in the definition in Bill C-2. Then, "addition of definitions to cover the four main types of construction work."—this does not appear to have been adopted in this Bill C-2.

2. Section 31(b): To be amended by a provision for avoidance of all conflict with freely negotiated hours of work by types of construction work: We do not think, to our mind, this has been recognized by the bill.

In the case of the elimination of overtime permit procedures, the deputy minister was perfectly right earlier on when, in an aside, he said to me: "There was flexibility, more flexibility, than had previously existed."

I would like to again record for the record that we have no intention, if only from management's point of view, regarding dropping our activity, of ever seeing people work beyond something in the vicinity of 60 hours maximum per week, including overtime, because after that your productivity drops off from management's cost point of view; you have reached a point of no return, even before. I mean this is certainly the limit to which you can employ a construction worker on a year-round basis, which we are hoping to do more and more.

Concerning the other point about the provision of statutory limitation of 30 days on claims: I would advise the Committee here, if I may, Mr. Chairman, that our management's position, in preparing our joint brief on this originally, was something in the vicinity of between 6 and 12 months. I think I am right in saying, Mr. Irvine, that it was you who said: "If I have a member who does not know within 30 days whether or not he has been underpaid, I do not have very much sympathy for him." A union member should know when he has been properly paid, and it was at Mr. Irvine's request, when drafting this joint brief, that we came down to 30 days; because when a man receives his wage package he normally knows what ought to be in it. In many industrial labour agreements you find clauses to the effect that if you have not raised a grievance within 15 days, when you have had a week to think about it and double check it—and maybe you are being paid a week in arrears—then you have accepted that the amount is correct. You have had plenty of time. This is why we asked for 30 days, but there is no provision for this in the bill.

Addition to regulations; stipulation of effective dates for revised fair wage schedules: We have had the odd case—and I will stress the word "odd"—but we would like to see this clarified once and for all. If new conditions are established, normally by collective bargaining, of course, then we would like the contractor to have fair warning about the date. It eliminates all sorts of grievances and friction—and avoidable friction—between labour and management about when the new conditions become applicable.

We say they should become applicable when the agreement for the area, for all other work, changes; so that you avoid that unnecessary area of possible grievance.

I do not know if I have answered your question, Mr. McCleave.

Mr. MCCLEAVE: We have not yet heard from the department whether this last request for the addition to regulations will be met or not. Is that correct?

Mr. HAYTHORNE: Mr. Chairman, with your permission I would like to comment on the points that Mr. Stevens has gone over because perhaps I think this might help to clarify the position of the department with respect to these proposals.

Let me say, first, that we recognize very clearly the importance of having employer-employee relationships develop in a cooperative way, and we certainly welcome the kinds of initiatives that have been taken here. We think this is excellent. We have been encouraging this for years and are very happy to see it. Our problem here has been, to put it very simply, that a commitment was made by Mr. MacEachen during the debate last year when the Canada Labour

Standards Code was before Parliament, as Mr. Nicholson pointed out the last time, to bring the principles of our Fair Wages and Hours of Labour Act into line with those of the code. This is what we addressed ourselves to, and really nothing more than that.

When we had, from the industry, a rather extensive set of proposals, many of which went some distance beyond introducing the simple kinds of amendments needed to bring the Fair Wages and Hours of Labour Act into our code, that is where we got into a good many extensive discussions. I must say that from our point of view these discussions were helpful in making quite clear what the interests of both the unions and the employers were, in this instance. Let me say that by no means was there unanimity on the union side and by no means has there been complete unanimity on the employers' side, from the discussions we have had. That does not mean that there is not obviously a preponderance of interest on the part of each group in coming forward with these proposals.

Let me deal more specifically now with these 8 or 9 points that have come up.

The CHAIRMAN: Dr. Haythorne, there is one point here that troubles me. We have, I would hope, fairly easy access to you. How many of these gentlemen are from out of town?

I am just wondering if it would not be courtesy if Dr. Haythorne would be kind enough to yield. Perhaps the Committee would like to get through the questioning of the witnesses that we have here, and if Dr. Haythorne would be good enough to come back he could be our final witness, unless there are others. If that meets the approval of the Committee I think it might be preferable.

Is that all right, Mr. McCleave, because it was really your question?

Mr. McCleave: Yes, that is fine.

The CHAIRMAN: Have you any further questions, Mr. McCleave? No? Then, Mr. Barnett.

Mr. STEVENS: Mr. Chairman, if I may interject briefly, I am also a resident of Ottawa and will be available, as is Dr. Haythorne, and will be glad to reappear; and I shall be attending all sessions of this Committee in view of our vital interest in this issue.

The CHAIRMAN: I want to thank you, Dr. Haythorne.

Mr. BARNETT: Mr. Chairman, I would like to ask whether it would be fair to say that, on the basis of the submissions we have had so far, the objections which have been raised in the consideration of Bill C-2 are not about what is in Bill C-2 but about what is not in Bill C-2. Is that a fair statement?

Mr. STEVENS: I would say it is a reasonable approach.

Mr. BARNETT: Just so we will be perfectly clear on this point, may I ask if there is any specific point in the proposed Bill C-2, which changes the original Fair Wages and Hours of Labour Act, and to which you object?

Mr. STEVENS: We do not object to the penalties, for example. As we stated in our opening statement, we have asked for more. The minister and the department have been handicapped by lack of sufficient staff.

I think one benefit there—a rub-off of the Labour Standards Code—was the fact that the department was able to get an extra vote from Parliament to

strengthen the enforcement staff. I do not think the question of penalties is a problem for the contractors but, again, I know this is a procedure that has been long established in Quebec. But there have been teeth in the act. The minister said this penalty section was putting teeth into the act. We maintain that there has been some effective action, and we did state that 20 per cent of the contracts had been policed in recent years, bearing in mind the lack of availability of sufficient staff to do a better job.

The teeth existed in the retroactive assessment on under-payment of wages, so that contractors have paid claims which run into tens of thousands of dollars if not hundreds of thousands of dollars; and the annual report of the Department of Labour each year gives the total figure which shows a range of anything from \$150 thousand to \$300 thousand to \$400 thousand. There appears to be a temptation in days of recession for that figure to rise and in days of full employment for that figure to fall.

I hope I have answered your question, Mr. Barnett.

MR. BARNETT: That means then that really we are considering, in relation to your submission, is the 1935 Act as it now stands?

MR. STEVENS: We would like to see the proposed terms of Bill C-2.

MR. BARNETT: In that connection, and if I may refer to the proposals on page 9 of your brief, where you make some specific suggestions for amendments, I do not know how many of us on this Committee are lawyers, but when we come into this question of definition and meaning of words within the context of the law I know I have often been puzzled by the result. Quite frankly the question in my mind is what is the difference between the present wording in the Act, which says "character or class of work" and your suggestion that that be replaced by the words "type of construction work". Up until now, I have not been able to see what difference there would be, within the meaning of the law or its application, in that proposed change of phrasing.

MR. STEVENS: As I have mentioned, I am no lawyer and I do not think our union friends are lawyers either.

Our problem here is that traditionally unions in our industry have negotiated agreements for varying sectors of the industry, which have their own idiosyncrasies, such as tugboats and railway running crews. For example, Mr. Irvine has a five-week strike in residential construction going on right now in Toronto. That is a separate agreement with a separately chartered union local. He has a commercial industrial local. It is working.

● (12.45 p.m.)

I think I am right in saying, that Mr. Hill has certain people who work under one set of conditions with respect to excavation of major building construction under an agreement. However, with regard to road building and heavy construction, they work out in the woods and in the sticks under a different set of conditions. But you negotiate for the sector of the industry; you negotiate for the residential sector, the minor construction sector, and you negotiate for major building, industrial and commercial construction sectors. You also negotiate—and I think this is new to the construction industry on the Canadian scene rather than south of the border—working conditions for industrial maintenance by contract.

This is done quite largely in the Sarnia area where you have to be able to provide seven hours a day of service to these spectrochemical plants in the steam fitting, plumbing, and electrical trades. In this respect you negotiate completely different agreements, more of an industrial type, for a continuing operation. So these are the four sectors, and you negotiate different basic conditions to meet the idiosyncrasies of the specific requirements of that particular type of job. Perhaps the union people should supplement what I have to say.

Mr. BARNETT: Just so that we may be able to point to any remarks made in this connection, what is puzzling me, quite frankly, Mr. Chairman, is this. I think I understand, the situation generally at least. I am not unaware of everything that is going on in the construction field. However, I have seen enough of it in my own area of the country to realize that there are different classes and types of construction, but it seems to me that the points which have just been outlined are covered, as far as the application of the law is concerned, by the very phrase, "character or class of work". I cannot see how that could be more precisely defined, as allowing for this division in view of the negotiations, than it is by those particular words.

Mr. HILL: Mr. Chairman, just to go a step further in this particular area, it is true that under the word "definition" sometimes some of these particular things are pretty hard to define specifically. To give an example, in the Toronto area the road construction is really in two segments. One is known as structures because of the development of level passes as well as bridges, as opposed to the base road building feature, and this may be done by two different sets of people. I am talking of contractors now. There would be two sets of conditions on the same road job because of agreements that exist in those areas.

Again, we ask that recognition be given to these particular situations. They may appear like isolated cases, but they are really not so because the method of construction is changing over the years, and this is what we are recognizing in the field. This is also one of the matters that we are asking to be recognized under the Act itself. It might mean that there has to be a little more flexibility in this regard to recognize these particular things. But again I want to point out, from the union's standpoint—and I think that the Contractors' Association would concur in this—that what we are asking for, basically, is recognition of the basic cost factor. If you want to term it strictly a wage point, then we ask that the total cost of the labour content should be the one to be recognized. This can be done, by recognizing the agreement which governs the particular class of work in the area in which that work may be performed.

Mr. BARNETT: I may be in error, but I understood from the minutes of our last meeting, with regard to the question of what was included in the term wages, that within the existing law there was provision for taking into account the fringe package whatever it might be, in reaching a determination of what their wages mean. We have not yet seen the written record of what the Minister said, and I may have misunderstood him. Perhaps I should have some clarification before I say that that is what he said. May I ask you whether in your experience this is taken into account in arriving at what their wages mean under the administration of the present Act?

Mr. STEVENS: When the deputy minister spoke a few minutes ago, he made reference to a number of discussions which have taken place. We have made

representations, and our final letter to Mr. Nicholson of some date in March is before you, after two lengthy discussions, one of which was subsequently held with the deputy minister and I think one of his officials. Our position, unfortunately, is that we would like to see this spelled out in the Act, as we stated before when addressing ourselves to all members of the Senate and the house. It has led the Minister to be good enough to have the Bill referred to this Committee. We would prefer to see it spelled out in the Act. We have a minority government situation, and we would like this to be clear and unchangeable. This can only be done by being spelled out in the Act, and not by regulation. We have had some advice in this matter from relevant quarters.

The CHAIRMAN: Is that satisfactory, Mr. Barnett?

Mr. BARNETT: I have one other question that relates to the matter of amendments to the Act. Earlier reference was made to the phrase, "the influence in the labour market area", but as far as I can see there is no specific suggestion in the list of proposed amendments which covers that point. Reference is made to the desire for taking this into consideration on page 5 of the brief.

I would like to relate that phrase, inasmuch as it is apparently one that is quite important in the consideration we have in mind, to the phrase, in the Act, which refers to "in the district in which the work is being performed". Now what phrase, as it stands, does not spell out what constitutes a district. My question to you would be, why is that phrase not as inclusive as the one you suggested in your brief of influencing the labour market area? I would suggest, from anything you have said, you are not thinking that we should seek to spell out in the Act what the influence in the labour market area is concerned with. This might vary from time to time depending upon the availability of people in specialist trades to do a major job who might be on one side of the country or the other.

Mr. STEVENS: Mr. Chairman, our answer to Mr. Barnett on this point would be that I think his own colleague Mr. Herridge would be sadly hurt if you told him that the Columbia River area, which is, I think, in part of his riding, if I am not mistaken, was part of the Vancouver district. This is our problem, and the type of problem, to give you a B.C. illustration, with which they are concerned. They are concerned with the fact that the DEW line was very largely built with Montreal labour in the east, and northern Alberta labour, mainly based in Edmonton, in the west. Those were the conditions which in fact the Department was led to stipulate at that time. As Dr. Hayes and the deputies pointed out, this also applies to Cold Lake.

This was not a problem in Cold Lake, but it might conceivably have been so under certain conditions. However, it should also be borne in mind—and this is the very point you made yourself, Mr. Barnett—that supply and availability of labour in these skilled trades varies from time to time and from occasion to occasion. However, I believe it is agreed that the phrase in question is the desirable one. Am I correct, Mr. Hill?

Mr. HILL: Yes. I think a good example is Frobisher Bay. If there are workmen required for Frobisher Bay, they will come out of the Montreal area, in most instances, and this would be the influencing situation in that particular area.

Another situation that exists, right now—and this is being done under a private contract—are the operations in the northern part of Quebec, which is only accessible by boat at the moment. Again, the influencing factor is the Montreal situation where the supply of labour and the conditions make it enticing for that individual to go up on that particular job. These are the things to which we are referring as influencing factors in so far as agreements are concerned.

The CHAIRMAN: Gentlemen, we have two more speakers, Mr. Mackasey and Mr. Reid, and Mr. Régimbal is also planning to speak.

Mr. RÉGIMBAL: I have a short question on procedure, sir. You were referring to the summary of recommendations on page 9, which do need explanatory notes. I wonder if we could put into the record a copy of the brief as presented so that we will have everything there, as well as copies of correspondence to Mr. Nicholson and the April 29 letter? I so move.

Mr. GRAY: I second the motion.

Motion agreed to.

Mr. REID: Mr. Chairman, I have very few questions.

The CHAIRMAN: Well, we have five minutes. Can Mr. Reid and Mr. Mackasey go through in five minutes? You are finished, are you, Mr. Barnett?

Mr. BARNETT: Well, I am willing to yield my questioning for the time being.

Mr. MACKASEY: If we concluded this part of the questioning, it would help the witness in not having to come back. I do not think anyone would mind too much if we went a few minutes after one, since we are all interested in labour.

Mr. Stevens, I just want to say something for the record and it is no reflection on anything you have said. There have been several references to the minority government. I think I must point out to the Committee that when the national code was accepted it had the unanimous approval of all parties, and that there is no particular party in the House that is either anti-labour or pro-labour.

An Hon. MEMBER: They have done a tremendous job.

Mr. MACKASEY: That is right. Mr. Chairman, I also want to emphasize that I am sure we would not want to leave the impression here that, because we are a minority government, anything is being left out of the Bill which is beneficial to labour or to management. This inference could have been taken by people reading these proceedings.

Mr. STEVENS: No, I did not want that to be misconstrued in any way, shape or form, nor would Mr. Hill want to be interpreted in that manner. However, for the record, I appreciate your comments, Mr. Mackasey.

Mr. MACKASEY: I was under the impression that neither you nor Mr. Hill had any objection at all to the minimum wage of \$1.25.

Mr. STEVENS: Our problem is that we are asking for more.

Mr. MACKASEY: But at least you have no objection to the \$1.25. The reason I am rushing is to give Mr. Reid a chance.

Therefore, this may have been a factor yesterday morning, but it is no longer the main factor. So we can forget the \$1.25, am I right, Mr. Hill?

Mr. HILL: I just want to interject here that this became a matter of record simply because it appeared in the press that if the cost factor, which includes the pension or welfare benefits plus the wage rates, then became \$1.25, this is what we were seeking. This is not what we are seeking.

Mr. MACKASEY: I appreciate that very much, Mr. Hill, because I think in some areas the fringe benefits add up to \$1.25. In other words, just to reiterate, Mr. Chairman, as far as the Committee is concerned, this clause of the amendment is really irrelevant in so far as Mr. Hill and Mr. Stevens are concerned. They are quite willing to accept the \$1.25 minimum in the amendments.

Now, Mr. Stevens, with respect to the hours of work, have you any objection to the reduction from 44 to 40 hours before overtime is paid?

Mr. STEVENS: I think this should be answered by Mr. Hill. I think there will be problems for both union and management in this highway and heavy area for the little work that the federal government normally does under its own contracts.

Mr. MACKASEY: Have you any objections to the hours being reduced from 44 to 40 before overtime is paid?

Mr. STEVENS: I think this would create problems for both parties.

Mr. MACKASEY: Agreeing that it would create problems, would you object to it?

Mr. STEVENS: I think I gave Mr. Knowles an answer on this point which he well understood.

Mr. BARNETT: I believe what I specifically asked was if there were any points by which Bill C-2 changes the provisions of the existing Act. As I understood it, the answer I got was no.

Mr. STEVENS: There are two small areas where we have a problem in this area, and Mr. Hill has them just as much as we do.

Mr. MACKASEY: Even we have problems with truckers and everything else, but we are not discussing them right now. I would still like to know whether you object to the 44-hour week being reduced to a 40-hour week before overtime is paid?

Mr. STEVENS: I think it would create problems in the over-all situation just for highway and heavy area.

Mr. MACKASEY: The question is do you object to it. The purpose of the Committee is to come back and rearrange this Bill. Do you object to it on a monetary aspect, representing employees?

Mr. STEVENS: I think we would.

Mr. MACKASEY: Mr. Hill, as a labour representative, do you object to labour being paid overtime after 40 hours, instead of 44 hours?

Mr. HILL: I cannot object to that, but I think, basically again, without evading the question, and being very simple and straightforward about the

proposition, we are asking that the hours of work, if at premium rates, be paid in accordance with the existing agreements covering the type of work which may be involved.

Mr. MACKASEY: Now in effect?

Mr. HILL: Now or in the future.

Mr. MACKASEY: Well, what do you mean by "in the future"? Can you visualize an agreement being signed in the future which would not provide for overtime after 40 hours?

Mr. HILL: I can visualize agreements in the future providing for less than the 40 hours, or even less than the hours of work that may be in the agreements at the present time.

Mr. MACKASEY: Well, in other words, you are saying when prevailing conditions in Canada come about where 35 is accepted instead of 40. I would imagine that surely the national code will be changed at that time to bring them down to 40. In other words, your objections are diametrically for the opposite reasons to Mr. Stevens. He is objecting from a monetary point of view and you, as a good labour man, are foreseeing the day when, because of automation and other reasons, the normal work week will be 35, and you think that overtime then should begin at the 35-hour point.

Mr. HILL: The only thing I can say is that having asked for one thing on the one hand, I have to ask for the other thing that goes hand in hand with it. I say again that we have no objection to overtime being paid after 40 hours. We also recognize that there are certain agreements which provide other features, and we are simply saying that the Act should provide recognition of the agreement.

Mr. MACKASEY: To be fair, Mr. Hill, I appreciate your straightforward answer—as two labour men, we understand it. However, you have a preference for overtime being paid after 40 hours rather than overtime being paid after 44 hours.

Mr. HILL: Oh, definitely.

Mr. MACKASEY: Now, one last question, Mr. Stevens. There is a lot of talk about influence conditions in an area. We have talked about Frobisher Bay, the DEW line, and so on, but I think you will agree that, according to Clause 2 B, the Department of Labour can take into consideration extraordinary conditions such as the DEW line. Representations can be made to the Minister of Labour to permit working hours per week to go well beyond the 48 hours, so I do not think this is a factor. Are you aware, Mr. Stevens, of the conditions existing with respect to the highway, road and sewage areas here in Ottawa? I have in front of me a contract signed between the National Capital Road Builders Association on the one hand, and the Council of Trade Unions acting as the representative and agent for the International Union of Operating Engineers on the other, signed in 1964. This agreement provides overtime for water carriers and so forth, the people that normally need help, only after 120 hours of work in a 2-week period, and then at time and a half. Is this the type of influencing conditions that we should take into consideration when the federal government is setting up standards for tendering in the Ottawa area?

Mr. STEVENS: I do not know which particular union has signed that agreement. It may well be that one of the signatories to this agreement is Mr. Hill's union. However, let me say too that the problem goes back to the root. Mr. Hill and I, in answer to your previous question, find ourselves in agreement, as you may have rightly pointed out, but for different reasons. I think a grave situation is involved here because the construction industry is, very largely, still in a private enterprise economy. But the situation here is an economic one. The taxpayer is the one who has to foot the bill in the end.

Mr. MACKASEY: The taxpayer is also the water carrier who is working for 50 and 60 cents an hour.

Mr. STEVENS: I have not finished my answer, if I may, Mr. Mackasey, with all due respect. The question is, what would the conditions be if Mr. Hill's organization did not sign that agreement at the present time?

Mr. MACKASEY: Well, I am going to ask Mr. Hill about that. Here is another question, Mr. Stevens.

The Metropolitan Toronto Road builders—and I just explained Mr. Barnett's question before in getting the phraseology changed somewhere in the Bill to the four different categories—have an agreement here for labourers and teamsters at 55 hours a week before time and a half. Now, if we were to take that influencing condition in drawing up our specifications, then the federal government would be quite within their rights, despite the existence of the national code, to agree to time and a half after 55 hours.

Mr. HILL: I was going to say that our organization is party to both those agreements, and while we do not like them in the sense that they provide those particular things, you will note that those agreements are a tri-party agreement in the sense that there are three unions or three labour organizations party to this agreement. In most instances those agreements now show a definite improvement over the conditions that existed prior to the agreements becoming part of the picture today.

I would still say, recognizing those agreements, that if we sign those contracts with a contractor, a contractor's association or a group of contractors, we will still live with them if they become part of the specs for federal work. The situation again, as I point out, is the fact that we will recognize these agreements and, in turn, ask that you recognize the agreements plus the monetary factors that may be included.

I want to go a step further and point out that while these two have been brought out as an examination of the situation, I also know of another situation where a 44-hour work week was involved when the railroad and the road work was being built to Pine Point, and without any consultation with the unions involved at that particular time, extension was granted to work at straight time to the workers on that project.

Mr. HAYTHORNE: What year was that, Mr. Hill?

Mr. HILL: I am not sure. I mean this is a point, Mr. Haythorne, which is in contention. The fact was that this originally came under the field of the Federal Labour Code, and at some time during the performance of that work there was an exemption. Now, if the government sees fit to

make exemptions because of certain situations, then I think, on the other hand, they should recognize the position that we are advancing at this time. That is, whether we like it or not, there are agreements in existence covering certain things, and all we are asking is that it be recognized. Certainly, we would like to see overtime paid after 40 hours, but if we have an agreement in existence for 55 hours a week, this is what we will ask.

Mr. MACKASEY: Mr. Hill, I agree with you. My whole background is in labour, and I probably would have signed the same agreement as you did if it was an improvement over conditions at the time you signed. I am not castigating labour for signing these conditions when it was an improvement. All the amendments to the Fair Wages and Hours of Labour Act are to make it that much easier again for conditions to be standardized as a consequence and to make your role even easier. You no longer have to fight with an employer to bring the minimum wage up to \$1.25. You no longer have to fight with an employer to make certain that time and a half is paid after 40 hours a week, if this is accepted. And this is what puzzled me when I saw a joint proposal, and at once I thought as a labour man, not as a government man. But I think we have a duty, not only to labour, but to the employers as well, as Mr. Stevens is anxious to tell me.

But surely, as Mr. Knowles pointed out, the relationship between public works and the employers is so great today that we cannot, in all conscience, turn around and ask other segments of the labour field in the contracting industry to recognize the \$1.25 as the minimum standard when the federal government is not willing to do so. In so far as the arguments about fringe benefits are concerned, I asked Mr. Stevens about these contracts in some of these remote areas. Are we to eliminate the local contractor because he can meet the minimum standard of \$1.25, but he cannot possibly meet all these fringe benefits? This, in effect, is what would happen if you dragged in fringe benefits. Am I right in that?

Mr. STEVENS: Well, this works both ways; you could discriminate either way, depending on which way you set your situation in this, Mr. Mackasey.

As we said at the outset—and I am not sure if you were here at that time—

Mr. MACKASEY: It is obvious I was not because I came in 20 minutes late.

Mr. STEVENS: —I think we have placed our position pretty squarely before the Chairman and the members of the Committee. We have agreed to do a certain thing with which both labour and management can live. We pointed out to Mr. Knowles and Mr. Barnett, I think, that there is one area on which you have now very ably put your finger where there is a problem, but there is a solution which we are putting forward and Mr. Hill has made it clear that it is the only one which will establish a situation with which the industry can live under these circumstances. Perhaps I should also state that it might be helpful to the Committee to check on what applications the agreements you have cited had to settle construction. The question is, what effect have these agreements had—over the last 5 or 10 year period—on federal employees working under these conditions?

Mr. MACKASEY: Well, Mr. Stevens, it is apparent to Mr. Chairman and Mr. Reid that many of these questions, I am sure, can be discussed by the committee

later. I would just like to summarize and ask you once again if you have any objection to the \$1.25 minimum wage?

Mr. STEVENS: It is not what we have asked for. We have asked for more. That is my answer, for the record.

Mr. MACKASEY: In other words, would you like us to re-amend this and put in \$1.50?

Mr. STEVENS: No. We asked for more in the form.

Mr. MACKASEY: Mr. Stevens, are you satisfied with the \$1.25, if we adopt it?

Mr. STEVENS: As a base.

Mr. MACKASEY: As a base, yes. With respect to the 40 hours, as I understand it—and I am giving you a chance in case I misunderstood you—your only objection to overtime beyond the 40 hours is the monetary problem?

Mr. STEVENS: No. It is a question of establishing a situation with which the industry can live in one very small sector where there is very little federal work when you look at it on an over-all basis.

Mr. MACKASEY: Then if it is such a small segment, it is not really very effective over our operations of the general construction industry?

Mr. STEVENS: Well, we do need it, and Mr. Hill has spoken of this just as much as I have.

Mr. MACKASEY: Well, I think if you need it you are going to have to live with the 40 hours plus overtime. That is all, Mr. Chairman.

Mr. REID: Mr. Chairman, before we begin, I think we should bring it to the attention of the Committee that Mr. Mackasey is attracted to labour in more ways than one because he became a grandfather for the first time this morning, and that is why he was not able to hear the first few moments of your presentation. I think it is worth while to put this on the record.

The CHAIRMAN: Congratulations, Mr. Mackasey.

● (11.15 p.m.)

Mr. REID: Mr. Mackasey asked some of my questions on the regional labour market. However, there is one thing that bothers me, and I would like to get it cleared up, and that is with respect to page 5 where you ask for definitions of the type of construction work, along with some of the other things you have asked. As you rightly point out, it has taken a long time for this Act to come up for revision. Are you not afraid of over-rigidity in these definitions which may change in five years. But perhaps I could put it in another way and ask you a question concerning the role of the Department. As I understand it, many of the regulations of the Fair Wages and Hours of Labour Act are put out by regulations under the Minister's authority. Would you have a criticism, or perhaps it would be proper to say that you have not been entirely happy with some of the regulations that have come down respecting this method of administration. For your own protection, and for the protection of your industry, since you are not a national bargaining unit, and for the construction industry itself that is badly fractionated you are looking for some method of creating some sort of a national standard?

Mr. STEVENS: I think the question of definitions concerning construction work arose some years ago after a select committee in Ontario were again recognizing the special problems of the construction industry in the labour standards field. It was deemed advisable by the government, at that time, to provide special legislation in the Ontario Labour Relations Act. Sections 90 to 96—I stand to be corrected—were provided which specifically applied to our industry and our industry only, in view of its very specific differing needs. The definition was developed there for the first time and, so far it has stood the test of time. For example, demolition is clearly construction, which may sound ridiculous on the face of it, but definitions have been developed in recent years, Mr. Reid, to answer your point, which have, so far, in six or seven years—and Mr. Davies is solicitor to the Department of Labour—been found on an over-all basis to stand the test of time. They may change in another 30 years—things move faster today than they moved 30 years ago—but I think a definition can be conceived which has flexibility, but we should not have to live under it for some 20 or 30 years. Are there any other comments Mr. Hill might have on this?

Mr. HILL: No, I think that is generally the situation.

Mr. REID: In other words, then, the improvements you suggest for this act would bring it up to the standards of the Quebec act and the equivalent Ontario act?

Mr. STEVENS: I am not in any way talking about the philosophy of the Quebec Act, Mr. Reid I am talking about the definitions of construction in the Ontario Labour Relations Act. I would like the record to show that I am talking about the labour standards of the Province of Ontario.

The CHAIRMAN: Any further questions?

Mr. REID: No, thank you, Mr. Chairman, that is fine.

The CHAIRMAN: I would like to thank Mr. Stevens, Mr. Hill and the other witnesses and members of the Department for being here.

If it is agreeable to the Committee, we will adjourn until Tuesday, May 24, at eleven o'clock.

The meeting is adjourned.

APPENDIX 3

Submission
by the
ASSOCIATION OF INTERNATIONAL REPRESENTATIVES OF
THE BUILDING AND CONSTRUCTION TRADES
and the
CANADIAN CONSTRUCTION ASSOCIATION
to the
MINISTER OF LABOUR
on the
FAIR WAGES AND HOURS OF LABOUR ACT

May, 1965.

The Honourable Allan J. MacEachen
Minister of Labour
Ottawa 4, Ontario.

Subject: "Fair Wages and Hours of Labour Act"
(C. 108, R.S.C. 1952)

(1) *Introduction*

The Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association, recognized throughout Canada, welcome this opportunity to submit to you, Sir, their joint views regarding certain desirable changes in this Act.

It will be noted that the Senior Canadian Building and Construction Trades Union Representatives speak for 19 building and construction trades craft unions and a total construction labour force of about 450,000 workers.

On its part, the Canadian Construction Association and its Affiliates speaks for more than 8,000 leading construction employers in all segments of the industry.

All proposals are believed to be for the general good of the nation, our industry, its workers and its employers. We understand that this Act will be amended in the near future and hence respectfully submit our recommendations and amendments to the existing Act. We feel sure that you will want to give all the points we have raised your consideration so that the amended Act will work in the best interests of all concerned.

(2) *A Contemporary Approach*

This Act was conceived, we believe, by the late Right Hon. W. L. Mackenzie King when he was associated with the federal Department of Labour in 1905 and first adopted that year. The underlying concept was that any government

had a responsibility to ensure that all construction contracts carried out on its behalf should be executed under fair and reasonable working conditions. In those days trade unionism in construction was only in its infancy across Canada.

Today in 1965 these circumstances are very different. Both construction labour and management establish working conditions through free collective bargaining between their respective numerous and strong local organizations at regular intervals.

Our Associations would therefore respectfully urge that the Federal Government, in amending the Act, up-date its policy approach to meet current conditions. This should be done by having construction wage rates and hours of work conform to influencing labour market area practice for the type of construction work thereby avoiding interference in the process of free collective bargaining.

An excellent example of what we mean concerns negotiated employer-paid contributions which are at present not being incorporated into "Fair Wage Schedules". At some Canadian centres employer-paid welfare plan contributions have reached a level of as high as 35c per hour, thereby creating considerable inequity among bidders. Our Associations believe it is essential that equitable tendering conditions be provided for all contractors bidding any given project.

To this purpose, we urge that the Act and its Policy be amended to provide for the incorporation of all negotiated employer-paid contributions into "Fair Wages" wherever these exist.

It will be appreciated that the Act has traditionally served a twofold purpose, namely that of protecting workers against exploitation and that of protecting contractors against "unfair" competition. In cases where employees are not covered by negotiated benefits, the employer benefit contribution amount would become payable in cash to the employee himself.

Another example concerns the Province of Quebec where certain key provisions of collective agreements, which were freely negotiated and which are enforced by strong labour-management (Parity) committees, are juridically extended by Order-in-Council in the form of "Decrees" for sixteen areas covering almost the entire Province. Our Associations therefore feel that federal construction projects in Quebec should be governed by the hours of work, wage rates, welfare benefits and labour classifications of the applicable "Decree".

The Associations therefore respectfully submit that the Act should cease to conflict with long standing working conditions freely negotiated, thereby establishing the essential equitable tendering conditions for all bidders on federal government projects.

(3) *The Present Act*

(a) Interpretation

The Statute as it now stands is, in itself, a very brief one indeed, leaving the Minister considerable freedom regarding the administration of the Act. Section 2(a), i.e. the definition of "fair wages", reads:

"fair wages" means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed

for the character or class of work in which such workmen are respectively engaged; but shall in all cases be such wages as are fair and reasonable.

Our experience has been that the term "character" has not always been accorded the interpretation which we consider it should have been given. We refer here to the very major differences in character between residential construction as against building construction, and further, as against highway and heavy construction. Moreover, structural building maintenance by contract represents a fourth, again greatly differing, "Type of Construction Work". These differences have traditionally applied to wage rates for many classifications, as well as to hours of work. It is our view that in future to rectify this situation, the term "Type of Construction Work" should replace the words "Character or Class of Work" to clarify the terms of the Act. Definitions for each "Type of Construction Work" should also be added under Section 2. In support of this view, such sectoral differences in "Types of Construction Work" have long been recognized by labour and management as numerous collective agreements filed with the Department of Labour readily confirm. We believe that the recognition of differences in "Types of Construction Work" should be recognized as existing throughout the country. This request is based on our desire to eliminate difficult, disruptive influences within these various sectors of our industry.

(b) Contract Conditions—Hours of Work

Section 3(1)(b) of the Act states:

the working hours of persons while so employed shall not exceed eight hours per day nor forty-four hours per week except in such special cases as the Governor in Council may otherwise provide, or except in cases of emergency as may be approved by the Minister.

Our Associations here wish to refer to the "Contemporary Approach" urged above. With regard to the hours of work now specified, we propose that all conflict with freely negotiated hours of work be avoided for the "Type of Construction Work" in the influencing labour market area. Only in this manner can equitable tendering conditions be preserved for all bidders today. We further recommend that all overtime permit procedures be eliminated. In doing so, the Associations are fully aware of the Government's wish and the nation's need for "Full" employment. Our experience during the last twenty years has proven that such permit procedures rarely create any worthwhile amounts of additional employment. Construction progresses best and most efficiently when a job is kept "running". Past procedures have forced contractors into uneconomic practices—a situation surely never desirable or defensible and costly to the owner, i.e. the taxpayer. The uncertainty prior to tender closing concerning the possibility of being granted an overtime permit has also tended to disrupt tendering conditions.

The Act should also permit all contractors and workers at outlying and remote sites to work overtime on such projects. Unless this is done, it is not (as experience has proven) possible to attract an adequate supply of competent tradesmen to such projects. We similarly urge that the Act should permit overtime for highway and heavy construction. Over two-thirds of the total volume of such work is done for either provincial governments or for Crown

corporations and often in competition against their own forces. Much of the annual national volume for this "Type of Construction" is, of course, also performed at outlying, if not remote sites. Current collective agreements confirm the need for differing hours of work for this "Type of Construction Work" and we strongly urge that the Federal Government should follow that practice.

We would hope that these proposals will therefore be given your special consideration.

(c) Statutory Limitations on Claims

The Associations would respectfully suggest that a realistic time limitation be established during which claims by the Government for underpayment of wages will be handled. A number of instances have occurred where claims have been registered long after the work in question had been completed. A statutory limit of thirty days from the date of the alleged violation is therefore proposed.

(4) Regulations

(a) Retroactivity

Unless the contracting departments are prepared to reimburse contractors for additional costs arising through retroactive payments under amended "Fair Wage Schedules", their effective date should be the start of the pay week immediately following the receipt of the Schedule by the contractor from the contracting department or agency.

(5) Fair Wage Policy

(a) Occupational and Trade Classifications

In a number of cases, it has been found that Fair Wage Schedules failed to provide wage rates for all the classifications of workers to be employed on a project. To rectify this, it was suggested by the Department of Labour that our Associations might make representations to all federal contracting departments and agencies, asking them to request the Department of Labour for Schedules to cover the complete set of occupations required for any given project. In such cases, our Associations would be glad to continue to cooperate with the Department to overcome problems which might arise from time to time.

(b) Wage Surveys

We understand that federal wage surveys are now being taken once a year. These are supplemented by new agreements filed with the Department. Our Associations feel that the time has come when such surveys would best be conducted more frequently so that a closer check would be kept on the pulse of changes. It will be noted that quite frequently negotiations for new wage rates, commenced in the spring, have only been settled in late summer or fall, i.e. after completion of the present annual survey.

(6) Enforcement

Our Associations have, in the past, made representations to the Government or the Department urging increased enforcement of this Act. Recent statements show that only about 20% of all contracts are inspected. It is felt that it continues to be desirable to raise this figure.

(7) *Summary of Recommendations*

All recommendations made here, it is stressed again, are urged for the general good of the nation, our industry, its workers and its employers.

We hence recommend:

(a) Amendments to the Act and Fair Wage Policy

- (i) Provisions to avoid conflict with long standing working conditions freely negotiated, and
- (ii) Provision for the incorporation of all freely negotiated employer-paid contributions into "Fair Wages"

(b) Amendments to the Act

(i) Section 2(a) to be amended by:

- (A) Replacing "Character of Class of Work" by "Type of Construction Work", and
- (B) Addition of Definitions to cover the four main types of construction work.

(ii) Section 3(1)(b) to be amended by:

- (A) Provision for avoidance of all conflict with freely negotiated hours of work by types of construction work, and
- (B) Elimination of overtime permit procedures.

(iii) Provision of statutory limitation of thirty days on claims.

(c) Addition to Regulations

- (i) Stipulation of effective date of revised "Fair Wage" Schedules.

It is sincerely hoped that the above will commend itself to you, Sir, and to the Government. Our Associations are ready to assist the Department of Labour to develop the implementation of our recommendations.

All of which is respectfully submitted,

For Construction Employees:

J. B. Mathias,
Chairman

C. C. Cooper,
Secretary

Association of International
Representatives of the
Building and Construction
Trades.

For Construction Employers:

N. R. Williams,
President

S. D. C. Chutter,
General Manager

Canadian Construction Association.

APPENDIX 4

April 29, 1966.

TO: All Honourable Senators and Members
of the House of Commons
Ottawa.

Re: Bill C-2 Amendments to Fair Wages and Hours of Labour Act

Dear Sir:

Our two Associations, representing construction labour and management at the national level, jointly wish to advise you that the provisions of Bill C-2 fail to meet the unique labour standards needs of the construction industry, the only industry affected by the Bill.

Our basic objection to this Government Bill is its failure to give recognition to total remuneration and the hours of work at either end of the scale as *established by free collective bargaining* for the appropriate sector of the industry. Our joint superior proposals to the Government (as appended) would bring about *all future avoidance of the disruption of, or conflict with the process of free collective bargaining* through the imposition of inflexible standards artificially and to us unrealistically imposed by legislation.

Moreover, our Associations have in recent years in compliance with strong Government urging, established an enviable record of labour-management cooperation on labour legislation and on other major issues affecting the industry. Our joint brief was carefully developed and submitted in May 1965. It is therefore a source of deep regret that the Government failed in this Bill to act upon the industry's joint recommendations. Action through Regulations, we are convinced, will fail to meet our needs, since these can be changed by Order-in-Council at any time.

In view of the above, our Associations urge you, Sir, to ask the Government on the Second Reading of Bill C-2 to have it referred back to the Law Officers of the Crown in order to have the Bill redrafted in such a manner that it will meet our industry's unique needs. Such a step would, moreover, indicate your interest in the promotion of genuine labour-management co-operation.

We look forward to your personal support on our behalf in this, to us, critical matter.

Yours sincerely,

J. B. Mathias, *Chairman*
Association of International
Representatives of the Building
and Construction Trades.

A. Trottier, *President*
Canadian Construction Association.

APPENDIX 5

March 6, 1966.

The Hon. John R. Nicholson,
M.P., O.B.E., Q.C.
Minister of Labour
Ottawa, Ontario.

Dear Mr. Minister:

The Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association wish to thank you for the courtesy you recently extended to their joint delegation at the meetings at which the industry's views at the national level regarding Bill C-2 were brought to your attention.

We believe that it might be helpful to all concerned for us to summarize our position again. Our two Associations have, in compliance with the strong urging of the Federal Government, established an enviable record of labour-management cooperation. The joint submission to the then Minister of Labour of May 1965 regarding desirable amendments to the Federal Fair Wages and Hours of Labour Act was an excellent example of the nature of this cooperation. This brief was most carefully developed in the course of numerous meetings which extended over a period of five months. It was the belief of our Associations that the Government would welcome a joint brief in this matter, particularly since the Act virtually only directly concerns the construction industry. It was also our hope that the Government would see fit to follow these joint proposals.

As mentioned to you in the course of our recent meetings, labour relations in our industry are governed by a combination of unusual features which create a situation that has often been described as unique.

The underlying philosophy of our joint brief of last May was therefore our joint desire to bring about the development of an improved Act which would not only meet the unique needs of construction labour and management, but moreover bring about all future avoidance of the disruption of or conflict with the process of free collective bargaining through inflexible standards artificially and to us unrealistically imposed by the Act. We had also hoped that in view of the serious difficulties which revealed themselves during the passing of the new Federal Labour (Standards) Code regarding the application of its provisions to a number of key industries, that the then Minister and the Government would be all the more inclined to follow our joint proposals at the national level. We were consequently not only disappointed, but disturbed when we read the proposed amendments contained in Bill C-2.

Our joint brief specifically stressed the need for a new, superior approach to the establishment of Fair Wages and Hours of Work for our industry. We urged that this be done by recognition of total remuneration and the hours of work at either end of the scale as established by free collective bargaining for the appropriate sector of the industry in the influencing labour market area. We

pointed out that this practice had been followed successfully as a matter of principle and policy in the Province of Quebec for our industry for a period of over twenty-five years. We know that the Department and the Government are aware of the provisions of the Quebec Act which protect the public and the government against possible misapplication, i.e. Ministerial approval and the requirement to "Gazette" a pending Decree thirty days in advance of it coming into force in order that any possible objections may be raised with the Minister.

We would add that in recent years in our industry financial benefits other than take-home pay have become increasingly prevalent and should now be included in the Federal Fair Wage Schedules. This would be consistent with the principle as applied to wage rates when the present Act was adopted thirty years ago. It will be noted that the U.S. Government took this action when revising its counterpart legislation some time ago.

As was noted during the discussions, failure to stipulate the payment of prevalent total hourly remuneration on Federal construction projects leads to discrimination between bidders. Whereas you drew attention to the wide range in bids that is sometimes encountered on a construction project, the important factor is the difference between the two lowest bids. This is frequently quite small and the difference caused by different bases for estimating labour costs may well affect the order of the bidders.

The fact that some two months after the presentation of our joint brief the Prime Minister and other Ministers during the postal strike publicly extolled the virtues of free collective bargaining further encouraged us to believe that our joint proposals would gain the Government's acceptance. Under these circumstances, the industry cannot but feel disillusioned over Bill C-2.

We again thank you for your demonstrated concern regarding our presentations and hope that the further review of the matter which you have so kindly agreed to undertake will result in Government amendments which will help to resolve our difficulties to the satisfaction of all concerned.

Yours sincerely,

J. B. Mathias, *Chairman*
Association of International
Representatives of the Building
and Construction Trades.

A. TROTTIER, *President*
Canadian Construction Association.

HOUSE OF COMMONS
First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

TUESDAY, MAY 24, 1966

WITNESSES:

From the Department of Labour: Mr. G. Haythorne, Deputy Minister; Mr. H. Johnstone, Director of the Labour Standards Branch. *From the Canadian Labour Congress:* Mr. W. Ladyman, General Vice-President of the C.L.C., International Vice-President International Brotherhood of Electrical Workers. *From the Canadian Construction Association:* Mr. P. Stevens, Director of Labour Relations.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Boulanger,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gordon,
Mr. Gray,
Mr. Guay,

Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
Mr. Lefebvre,
Mr. MacInnis (*Cape
Breton South*),
Mr. Mackasey,
Mr. McCleave,

Mr. McKinley,
Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko—(24).

Timothy D. Ray,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, May 24, 1966
(4)

The Standing Committee on Labour and Employment met this day at 11:25 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Émard, Johnston, Knowles, Lachance, Mackasey, McCleave, Régimbal, Reid, Ricard.

Also present: Mr. LeBlanc (Rimouski).

In attendance: From the Department of Labour: Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnstone, Director of Labour Standards Branch; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Labour Congress: Mr. W. Ladyman, General Vice-President of the Canadian Labour Congress and International Vice-President of the International Brotherhood of Electrical Workers.

From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

The Committee resumed consideration of Clause 1 of Bill C-2.

Agreed,—That Mr. Ladyman would make a statement on behalf of the Canadian Labour Congress and the Canadian Construction Association.

Mr. Ladyman made a statement, following which the Committee questioned Messrs. Ladyman and Stevens.

Mr. Haythorne commented on the statement by Mr. Ladyman, and was questioned by the Committee during the questioning of Mr. Ladyman.

After the conclusion of the questioning of Messrs. Ladyman and Stevens, Mr. Haythorne made a statement.

The Chairman thanked Messrs Ladyman and Stevens for appearing before the Committee.

At 1:20 p.m., the Chairman adjourned the meeting until Thursday, May 26, 1966, at 11:00 a.m.

Timothy D. Ray,
Clerk of the Committee

EVIDENCE

(Recorded by electronic apparatus)

TUESDAY, May 24, 1966.

● (11.00 a.m.)

The CHAIRMAN: Order, gentlemen. We hope to have more members very soon. I should point out to you that Mr. Ladyman, who is the general vice-president of the C.L.C. and also vice-president of the International Brotherhood of Electrical Workers, sent me a telegram and asked to be heard. Is it agreeable to hear Mr. Ladyman right away, or would you like to entertain any other questions?

An hon. MEMBER: I think we should hear Mr. Ladyman.

The CHAIRMAN: Mr. Ladyman, will you please come in. Do you have a statement to make, Mr. Ladyman?

Mr. LADYMAN (*General Vice-President of the Canadian Labour Congress*): Yes, I do have a statement to make, Mr. Chairman, and honourable Members. It was drafted in rather a hurry this week end because I was not aware until Friday morning that I was actually going to be here myself, so I hope you will bear with me if I should happen to make any mistakes. I think the general intent of what we would like you people here in the House to realize is contained in the statement.

As General Vice-President of the Canadian Labour Congress, who speaks in that Congress for the Canadian construction unions on its executive committee, I appreciate very much this opportunity to address your Committee regarding Bill C-2. I am conversant with the nature of the joint proposals to the Government since last May, as I was a Member of the Joint Committee which prepared that brief. As a member of the Economic Council of Canada, I know that all governments and ministers of labour plead for and support labour-management co-operation in those fields where this is possible. My own organization, the I.B.E.W., has for many years actively participated and contributed to the benefit of its members, the industry and our economy in such efforts. We are proud of our record in this regard and I am confident that all members of your Committee also share this point of view.

The joint delegation appearing before you last Thursday stated why our two organizations, speaking for the industry at the national level, prepared our joint brief. It was pointed out in certain areas we feel the Act requires more precision, and in one particular the hours of work for only three of nineteen trades in only one type of construction requires a little more flexibility. These three trades all specifically endorsed this joint submission, because of the very practical reasons to which I will return later, which govern highway and heavy construction jobs. It was our intention, bearing in mind the serious problems which had convinced the government and members of parliament to adopt several amendments to the original Labour Standards Code Bill last year, to

help the avoidance of parallel problems for our industry in the preparation of the Bill now before you.

I feel that I should point out here the one fundamental difference between the purpose of the Labour Standards Code and that of the Fair Wages and Hours of Labour Act. The Code serves only one purpose, namely to establish basic minimum standards for all employees under federal jurisdiction. The Fair Wages and Hours of Labour Act, on the other hand, has served this as well as a much more important purpose, namely to establish fair conditions for federal construction. This then is the difference. The Code merely sets minimums, but this Act provides for fair conditions. To our minds, the Act of 1935 today no longer provides the correct basis for the establishment for fair conditions. To our associations' minds, such fair conditions are established, as has been the practice in the Province of Quebec for over thirty years, by the full recognition of prevailing collective agreements through juridical extension for the type of construction and trades involved subject to ministerial approval. We would surely all agree that free collective bargaining, as is now about to be accorded to the federal public service, establishes conditions which as a package are clearly fair and superior to basic minimum standards, particularly in construction as the evidence placed before you last Thursday confirmed. We are here, therefore, dealing with a piece of legislation which by its very nature requires an approach which must differ from that to the Code. This Act sets minimum wages to be paid on federal projects for each trade and classification within that trade where such exist.

Our joint approach on desirable amendments to this Act was therefore based on the superior level of free collective bargaining. We wished to see the Act avoid conflict with freely negotiated conditions, as has been done for so long already in the Province of Quebec. This, due to the unique nature of our industry, represents the soundest manner in which the construction industry can operate. We would therefore again ask you to give our recommendations, as a package, your most serious consideration. The wage table placed before you last week shows that 66 trades at 37 different centres are paid wages ranging between \$1.25 and \$2.00, 311 between \$2.00 and \$3.00 and 219 between \$3.00 and \$4.00 per hour. However, in a growing number of centres and trades affecting already the larger bargaining units, fringe benefits ranging between 5 cents and 51 cents per hour are now established. These should not be ignored under the Act as has so far been the case. On the other hand, with regard to hours of work, the table shows that out of a total of 600 reported units, there are only 107 working hours in excess of the forty hour work week and only 24 above forty-eight hours. Legislative intervention on this point will run the real risk of immediately reducing the worker's pay package on federal projects, a situation which I believe no member of the Committee would wish to see established.

● (11.30 a.m.)

Speaking for the unions only, I must express our concern regarding the competitive ability of our members to gain this work in those few instances. The difficulties concerning hours of work on highway and heavy construction to be encountered, if the Act would fail to accommodate this minor flexibility, would here also first lie in the fact that the overtime premium costs would

result in loss of jobs or income to a worker whose income is already extremely susceptible to climatic conditions. The federal government itself only becomes involved in this type of construction to a very minor degree in its total annual budgets of projects subject to this Act. Minimum standards and hours for this type of construction are governed by the provinces and municipalities. They are almost the exclusive clients here. To illustrate, 1965-66 estimates state that on highway construction the provinces will spend \$972 million, municipalities \$329 million, and the Federal Government directly only \$50 million out of a total of \$1.4 billion. This is less than five per cent of the total market. In fact, it is closer to 3 per cent than 5 per cent.

My members often work on highway, airport and bridge lighting, on transmission line erection and on power projects, as well as on the Dew Line maintenance under contract. Under these economic facts of life, I must advise you that any effort on the part of this Committee to effectively help to reduce the work week for this type of construction at this time can only backfire on the workers concerned in the immediate reduction of their annual earnings. The federal volume of less than 5 per cent of roadwork is simply too small to carry economic sway. Members are fully aware of the serious climatic difficulties which highway and heavy construction jobs encounter not only during our winters, but in addition in rainy summers when many days can be lost by poor weather.

Our reason for agreeing to longer work weeks on highway and heavy construction jobs arises from our need to protect the workers' annual incomes and their industry attachment. We know his regular work year of 2,000 hours has to be condensed into a period of 8 to 9 months at most. This then calls for a regular work week of 50 to 60 hours and is the basis of provincially set highway construction hours and from which we have to start negotiations. Some agreements therefore also average out work weeks over fortnights or a month. The situation has a parallel to that recognized under the Code for grain elevator operations, a similarly highly seasonal activity.

We feel that much progress has already been made through collective bargaining to reduce these longer hours of work and thereby to help these workers to improve their hours of work with full protection of their incomes. I would ask you to give this aspect of our joint recommendations your most serious consideration. Our unions would not be helped by an Act which looks fine on paper, but which in effect hurts our members.

Mr. Chairman, may I close with an appeal to this committee to adopt a statesmanlike approach by demonstrating your confidence in responsible labour-management cooperation as well as the superior merits of establishing fair working conditions through free collective bargaining. I would therefore respectfully urge you most sincerely to have this Bill meet the joint proposals placed before you. Only these would eliminate all possibilities of discrimination and establish truly fair conditions for federal construction projects and avoid to us the undesirable interference with the results of free collective bargaining.

I could quote an example here of what I am talking about. For instance, at the Atomic project in Pinawa, Manitoba the carpenters, who are well organized in the area, established wage rates and conditions with the contractors on that particular federal job. However, when other contracts are let on that particular project the Federal government goes on its own B rate, which is in the rural

areas of Manitoba, and that should be an unrealistic approach to this question because it created nothing but trouble on this job. We have had the same thing happen elsewhere. As I say, it is an unrealistic approach in our opinion.

I am sure most of you have heard of what is called "pre-hire" agreements. Now that is where a contractor or a group of contractors, knowing they are going to be bidding and have every possibility of getting a large project, must do some planning before these projects are started. They meet on a joint basis with the trades, and we sign agreements before a person is even employed on this job, knowing on both sides of the fence what has to be faced, the supply of manpower, and the rates that have to be established.

This is a perfectly normal affair; it has always been done this way in Canada and the United States, and I think it will have to continue to be done. And yet once this is established, both the fair contractor and the union employee, who is covered by these agreements, can actually be hurt by the bid being given, in our opinion, to an unfair non-union contractor who can underbid on the basis of this type of attitude that is proposed here. We think this would be a most unfortunate situation, and it is with us, it does happen and it can happen again.

Now, speaking for the building trades, as an IBEW vice president, I would like to ask Mr. Knowles, who I am sure was very well intentioned in his request of the previous Minister of Labour, to release the government from its undertaking of merely adjusting this Act to the Labour Standards Code so that we can progress towards an improved situation. It may sound strange to some of you that I may sit here advocating what to you may seem longer hours of work. Well, I would like to assure you all, ladies and gentlemen, that I have been advocating a shorter work week ever since I came into this business, which was 1932, and I think the electrical workers have demonstrated that this we intend to do, and this we have done.

We will have two contracts in this country within the next eighteen months in very large industrial areas where we will have a 37½ hour week. I am sure you have read in the past of the 25 hour week established in New York. It is not the intent of the IBEW or myself to advocate that there must be longer working hours; I will continue to work for shorter working hours. We say that in the particular fields, which this Act concerns most, the longer work week is a necessity at the present item. It is seen this way by the unions involved, but not by my particular union because we will work the forty hour week anyway, with the exception of situations such as the Dew Line which is an absolutely isolated area and the members themselves requested that the minimum be a fifty-four hour week, and this is the minimum.

These are special circumstances and we have to take these into consideration. So please do not misunderstand me and think that I am here advocating that we all return to the 60 hour week because this is not so. However, there are special conditions, and I have tried to demonstrate in this short brief that where circumstances warrant these things must be done, and we feel that the process of free collective bargaining is the most important way of determining what is necessary on these jobs.

In closing, I would like to repeat that I think it is a fact that our unions will not be helped by an Act which looks fine on paper, but which in effect does hurt

our members. I am not speaking particularly of the electrical workers; I am talking about the construction workers who are most involved in this type of project. Thank you, Mr. Chairman.

The CHAIRMAN: Do you have any questions to ask of Mr. Ladyman.

Mr. MACKASEY: I was the last speaker on Thursday, so I am quite willing to wait. Mr. Ladyman, it was only in listening to you that I realized we had the IBEW in common. I became active in it in 1939, which is not quite as long as you, and that is why I am rather happy that you did at least state that fundamentally, in the long-run, you are working for a shorter hour week. Now, as I understand the Bill, there are really only two provisions; one that overtime begin at the end of forty hours, and two that we tend toward a shorter hour week. Clause 2 of the Bill, Mr. Ladyman, makes provision for exactly the type of situation you are talking about. Have you had an opportunity to look at the Bill or analyze the Bill.

Mr. LADYMAN: Yes, I have, but in this country I am talking more of the roadbuilding industry than anything else. The question is, is it realistic? We do not think it is for roadbuilding.

Mr. MACKASEY: Well, Mr. Ladyman, on Thursday I discussed a contract in the Ottawa city area with roadbuilders who appraised time and a half after 120 hours of work. This was an agreement signed between Labour and the roadbuilders of the Ottawa district who paid time and a half after 120 hours of work. There was a total of 120 hours work performed in two weeks before time and a half was paid. This is in 1964, the first 120 hours of straight time.

Mr. LADYMAN: Was this type of work being done in Ottawa or in an isolated area.

Mr. MACKASEY: This was done in Ottawa by the National Capital Roadbuilders Association. This is the type of negotiated contract we are talking about. You talked about pre-negotiations. This was in 1964.

Mr. LADYMAN: I wonder what it would have been on the job if there had been no agreement, if it had been a non-union job?

Mr. MACKASEY: On Thursday the previous witness for labour, Mr. Hill, argued that organized labour has to accept this type of agreement to compete with non-union operators. The argument was that if he did not sign to 120 hours of straight time before time and a half and 60 cents an hour, the contractor who hired union employees would lose the contract to contractors who used non-union employees. Now, it seems to me that this Bill precisely levels out all types of labour because whether you hire non-union labour or union labour, you must pay a minimum of \$1.25 and you must start paying overtime at the end of 40 hours. Therefore, it seems to me that this is a protection to union employees in unfair competition with non-union employees. The contractors who now hire non-union labour can no longer quote 40 or 50 cents an hour if this provision is accepted; they must pay a minimum of \$1.25 and they must start paying overtime not after 120 hours for two weeks, but after a forty hour week. So it seems to me that this is a blessing to unions in the roadbuilding industry.

Mr. LADYMAN: In my opinion it would not look like a blessing to unions. It would look as though it should make it more difficult to organize in this

particular field. I regret hearing about the type of agreement you are talking about; I was not aware of it.

Mr. MACKASEY: These are not in remote areas of the country. This is in the capital of Canada.

Mr. LADYMAN: What I am told is that the people who do work in this particular type of work know it is a very seasonal type of job; there are only so many days in the year that they can work on roads, and there is very little else they can do in the off peaks because when they are off, everything else is off for the type of work they can do, and therefore they always feel that they must put in the maximum number of hours whenever possible.

Mr. MACKASEY: At 60 cents an hour in 1964?

Mr. LADYMAN: No, I do not agree with you.

Mr. MACKASEY: Well, this is the contract signed. This would be impossible under the new Bill.

Mr. LADYMAN: I would like to see the agreement myself. It sounds like something out of the middle ages.

Mr. CHAIRMAN: Excuse me, gentlemen. I have to remind you to speak directly into the microphone and one at a time.

Mr. MACKASEY: I have one other point. You made an argument which impressed me with regard to take-home pay. You cannot agree with the policy that affects the take-home pay of labour. Now at the same time, I do not think labour can have it both ways. Labour has always tended to favour a shorter week and higher wages. There is still a certain resistance in the labour movement to have both long weeks and high wages, and I think that Clause 2 of this particular bill takes care of just what you mentioned which says:

The working hours of persons while so employed shall not exceed eight hours per day, nor 44 hours per week, except in such special cases that the Governor in Council may otherwise provide or except in case of emergency as may be approved by the Minister.

You mentioned having to squeeze 2,000 hours into 8 or 9 periods. Well, according to the Deputy Minister, there is no reason in the world why this type of thing does not fall into that category; why some satisfactory averaging provision over a year, if necessary, cannot be worked out under permit. This is precisely why that was put in there.

Mr. LADYMAN: How would this be done?

Mr. MACKASEY: Would you like to explain this, Mr. Haythorne? Or perhaps I can. It is going to be the same as the truckers that come in, the grain elevators that come in. They sit down and present their problem. We are not out to hurt labour and we are not out to hurt management so we come up with a compromise to provide a period of adjustment, when management is faced with the realization that they can no longer hire people at 60c an hour for a 60 hour week. We give them 18 months or so to make the adjustment, to bring their pay up to a living wage so that labour does not have to work 120 hours in two weeks to take home a decent pay. This is the purpose of the standards and this is the purpose of this bill.

● (11.48 a.m.)

The CHAIRMAN: Do you want to make any comment, Mr. Haythorne?

Mr. HAYTHORNE: There is not much to add, Mr. Chairman, except to say that we have worked out, Mr. Ladyman, with a number of industries under our Canada Labour Standards Code a satisfactory arrangement for averaging, when there are obviously peak seasons. You mentioned the grain elevators. We are in the process of working out with the grain elevators in the west an arrangement whereby these two seasons can be levelled off with the opposite of the peak, the slack season, during the winter months. This does not have to be over the full year; it could be over a shorter period, or if it is over a full year, it is necessary for the employee to remain on the employer's payroll. We have been urging, very strongly, in those industries where training can make a significant contribution to the industry, that the employer should be ready to keep his employees on during slack seasons wherever training is appropriate and practical so that they could get advantage of the slack season for levelling out their total employment period, and arrive at a level of hours over the year which maintains a decent take-home pay but it does not involve overtime costs except for hours over 40 on the average throughout the year for the employer.

The CHAIRMAN: Are you through with your questions, Mr. Mackasey?

Mr. MACKASEY: Yes, I am.

Mr. RÉGIMBAL: Mr. Chairman, could I ask Mr. Mackasey to give us more specifications on that contract. It is conceivable that there must be a wage scale involved.

Mr. MACKASEY: Yes, I am just checking in here because I might have to make a correction on the rate per hour. Obviously, I was confused with the hours per week. One thing I am sure of, Mr. Régimbal, is that the water carriers work 120 hours in the two week period before they are entitled to time and a half. I do not have the specific rate per hour yet, and I apologize if I misled the Committee on the specific time per hour because labourers get \$1.55 per hour but they must work 120 hours over a two week period before they get time and a half.

The CHAIRMAN: Any questions, Mr. Knowles.

Mr. KNOWLES: Mr. Chairman, I was not planning to ask questions but I seem to be getting an invitation from two or three sources. First of all, I must thank Mr. Ladyman for the unsolicited compliment he gave me in suggesting that I should release the Minister of Labour from his commitment to bring in this legislation. I have been accused of having power over the government in various ways, but this is one to put into the record.

An Hon. MEMBER: You do not agree?

Mr. KNOWLES: I have to say to Mr. Ladyman that he has not yet persuaded me to release the Minister from that commitment. However, the purpose of this Committee is to listen to all representations.

Mr. Ladyman, I have listened with interest to your comments on free collective bargaining as a better way of arriving at wages and hours. I have also

listened to your reference to a superior way but I take it, it is the same area that you are talking about. I have also noted your reference to the fact that in the Fair Wages and Hours of Labour Act we are concerned not only about the minimums but areas above minimums. But when you come down to something concrete you seem to have only one point and that one point is the maximum work week.

Now, there is no point in our discussing these things unless we are quite frank with each other, and I must say that you have not get persuaded me that in 1966 we should have legislation that permits, without overtime rates of pay, hours of work in excess of 40 per week. There is no argument on the part of anybody in this Committee about the necessity of averaging; we went through that in the debate over the labour code and we boiled it down to the general principle of 2,000 hours a year. Are you asking that your members be required to work more than 2,000 hours in a year before overtime rates of pay are in effect?

Mr. LADYMAN: No, we are not.

Mr. KNOWLES: Then what change is necessary in this legislation? The legislation permits, with the agreements as yet made, averaging so that it is 2,000 hours a year we are talking about; it does permit work in excess of that at overtime rates. You and I both belong to the trade union movement in which we argue for penalty rates for overtime. Now, just taking you at your own submission of what is wrong with the legislation on this one specific point, I am talking to you as though we were sitting around the table with the C.L.C. executive council. You are there now and I was there.

Mr. LADYMAN: I understand. As I did say, Mr. Knowles, I am not here representing the I.B.W. in this particular field of hours because we do not look after that.

Mr. KNOWLES: No, you have done well.

Mr. LADYMAN: I am here representing basically the three base trades; the teamsters, the labourers and the operating engineers who are the mass of workmen on these construction jobs. This, to them, is the realistic approach to this particular question at the present time.

Mr. KNOWLES: Would you say what you mean by the realistic approach?

Mr. LADYMAN: At the present time, due to the competitive feature in this industry, that agreement, as I said, is a sad thing, as far as I am concerned. The people whom they do represent, and it is not too highly organized a field because of the temporary nature of the work, I would imagine, which is one of the problems of the unions involved, but it is a highly competitive field, and these people have indicated to the association of which I am a part and also jointly with the contractors' association that these are things that have to be dealt with realistically. They feel that any advantage such as this act can seem to be giving the unfair contractor is going to be a disadvantage to the union members regardless of the sad state of the agreement and the hours they work.

Now, it may seem to this Committee that 120 hours in two weeks is a most unrealistic working period today. It is not on certain jobs, and I think this is a sad thing, as a union man. You will find this even in crafts today. When they do go on isolated jobs they are not going today unless they do have an extended

work week. This is fine. The crafts that do have a proper agreement and have been able to exert their economic pressure over the years have established rates of pay and they will not vary these agreements. Their overtime provisions will prevail. These other people are not in that situation—the three basic trades—and that, when we are talking about hours, is basically what we are arguing for here. They feel that they are competitive; that they can improve these conditions through collective bargaining over the years, and they do think that this act will give their unfair competitors better innings in this particular field.

There is one other point, Mr. Knowles, while I am answering your question. You say that there is only one thing concrete here; but there is something which is just as concrete as far as the other trades are concerned and this is the fringe benefits. The United States government has recognized in the past year or two, that these benefits as contained in collective bargaining agreements, will apply to all federal projects. Here we do not apply them. This is most important to the other trades. Fringe benefits vary across the country from 7 cents an hour to something like 50 cents an hour. It is possible that some of these jobs will be left and these provisions are not paid. Either they should be paid in money, if it is a federal job, or these fringe benefits should be paid to these people who have already bargained and gained them and enjoy them on their other work. This act makes no provision for this at all. I think this is a very concrete point.

Mr. KNOWLES: I want to get back to the maximum hours per week question but before I do so, is it not a fact that this fringe benefit issue has no practical application to the minimum wage so far as your unions are concerned? They are all getting or will be getting \$1.25 in cash.

Mr. LADYMAN: Oh, yes.

Mr. KNOWLES: It is not an issue in that connection.

Mr. LADYMAN: The fringe benefits are; if their rate is \$2.00 or \$3.00 an hour plus 50c, then on your jobs they will get \$3.00, period; they will not get the other 50c.

Mr. KNOWLES: You say that, but I say that so far as the minimum wage requirement is concerned, it is not an issue any more.

Mr. LADYMAN: No, the minimum wage is not an issue.

Mr. KNOWLES: Let us go back to the hours of work issue. I am not trying to pin you down exactly or maybe you will say that I am, but when you say that we have to be realistic do I understand that you are, in effect, arguing that you be permitted to have contracts in which there are more than 2,000 hours a year before overtime is paid?

Mr. LADYMAN: No, I do not advocate that.

Mr. KNOWLES: I am still puzzled as to what is wrong. The act says 2,000 hours work per year, above that there must be overtime. You agree to that, all your unions agree to that.

Mr. STEVENS: This act does not say 2,000 hours a year.

Mr. KNOWLES: No but this act assimilates its provisions to the Canada Labour Standards Code and there is a section of averaging in that under which

agreements get made. I am assuming the Department of Labour will be just as cooperative and understanding in this field as it has been with the grain elevators, and so on.

● (12.00 noon)

On the general point, Mr. Ladyman, about competition with non-union outfits I would like to hear you philosophize on this a little more. I belong to the international typographical union, which we think is a pretty sophisticated outfit—the best union in North America and that sort of thing, so it says on our masthead.

Mr. LADYMAN: We believe it.

Mr. KNOWLES: We face an awful lot of competition from non-union print shops, but we do not let our standards down because of that. I wish you would, as a trade union representative, explain to me why you feel that because there are non-union employers that the unionized employers must be permitted to go to these lower rates.

Mr. LADYMAN: They are not going to lower rates, Mr. Knowles. They have established rates now that are better than non-union management is paying. If it were not for the provincial minimum wages, the highway industry would be in the state it was not too many years ago when it was the most cutthroat business in this country and, frankly, the working conditions, the living conditions and everything else were terrible; I am sure you know this. While the unions that we are talking about here perhaps have not progressed as much as they wished, I think they have done the best they could under very difficult circumstances. I believe competition is the reason for this.

Mr. KNOWLES: But the minimum wage legislation in the provinces has helped these unions?

Mr. LADYMAN: Yes. It is amazing how contractors, with all due respect to my friend Mr. Stevens, have a way of cutting corners regardless of minimum wages too, and non-union contractors find it much easier to cut corners than union contractors. This happens, Mr. Knowles; there are wage receipts received or paid for monies that are not really there. I am quite sure that the Act, as you envisage it, will give some protection, but as of now we are dealing with people who are now working on these jobs; they have established an agreement for 60 hours a week, they are getting so much money for that. I am told that this act can in effect eliminate a certain amount of their take-home pay if the contractor chooses not to take advantage of certain things within the act.

Mr. KNOWLES: Pardon me again, but you are concerned with these 60 hour week arrangements, which raises in my mind the question of the 2000 hours. What is wrong with a 60 hour week contract if you have an agreement to the effect that once you are over 2000 hours in a year overtime starts to apply?

Mr. LADYMAN: In my opinion this is foreign; I do not agree with this principle. I would say, as the act does, that overtime will apply after 8 hours and after 40 hours in a week. In the case of a day, if you work over a certain period, be it 8 or 10 hours, then your overtime will apply after that. I do not think we should say that after 2000 hours in a year's work he should get overtime; I think the overtime should apply daily and weekly.

Mr. KNOWLES: Mr. Chairman, may I ask Dr. Haythorne a question on that point? Does the legislation contain a provision in it under which the same thing can be done under these contracts as is done under the Labour Code.

Mr. HAYTHORNE: There is no averaging provision as such in the legislation as is the case in the code. I must say here, just to be sure that we are in the clear, that for years under the present act we have had the provision of overtime after 8 hours during a day and after 44 hours during a week, this applied generally across the board. The purpose of this amendment is to reduce the 44 hours to 40. However, Mr. Knowles, we do have a provision for permit, and we can, under present legislation, through governor-in-council, provide for a variation. We feel though that these would have to be exceptional situations and I think that the unions would not be very anxious to see us departing from what has been fairly generally accepted in the construction industry as being sound, that is the 8 hour day and the 44 hour week, or now the 8 hour day and the 40 hour week.

Mr. KNOWLES: May I ask both Dr. Haythorne and Mr. Ladyman this question: What is happening at the present time with the 44 hour limit in the Fair Wages and Hours of Labour act—is it right that it is 44 hours?

Mr. HAYTHORNE: It is 44 right now.

Mr. KNOWLES: —in relation to these 60 hour contracts?

Mr. HAYTHORNE: Perhaps Mr. Johnstone could speak on this because he is the person who is responsible for the administration of this act.

Mr. JOHNSTONE: As far as the initial overtime permit is concerned now, it requires time and a half after 8 hours per day and 44 hours per week. Most of the permits in the far north are for maximum hours of 10 per day and 60 per week, but overtime is paid after 8 and 44.

Mr. STEVENS: Mr. Chairman, I would like to interject here, if I may, to clarify one point. I think Mr. Johnstone would agree that in recent years, very often at the joint request of labour and management, the 44 hour week has been condensed into 5 days and you have granted permit on application very readily, in fact as a matter of routine, I would say, for 4 days, Monday through Thursday, 9 hours a day without overtime and that leaves, to make up 44, 8 hours for the Friday so that the worker doesn't have to take the trouble of going to work for 4 hours on Saturday morning. I think this has become the prevalent practice for the time being until this act is amended.

There is one other point which I would ask Mr. Ladyman to restate in order to answer Mr. Knowles fully.

Mr. CHAIRMAN: Before you answer, Mr. Ladyman; did you direct a question to Mr. Johnstone?

Mr. STEVENS: Yes.

Mr. JOHNSTONE: Mr. Chairman, Mr. Stevens referred to a special kind of permit we issue in some situations, not the majority of situations, and that is where the employer and the workers want to compress the 44 hours in 5 days instead of 5½, we issue what we call a warning clause permit allowing hours of 9 and 44 provided they do not exceed 9 in a day and 44 in a week. Under those

circumstances we do not assess overtime at time and a half for the 9th hour provided that they comply with the terms of the permit and work the 44 hours in the 5 days instead of the 5½. Unfortunately, in many of those cases the employer might exceed the 9 hours or the 44 and then we assess overtime after 8 and 44 because he has not complied fully with the terms of the permit.

Mr. KNOWLES: What happens to these people on 60 hour contracts?

Mr. JOHNSTONE: They get time and a half after 8 and 44. That has been our policy for 10 or 12 years.

Mr. LADYMAN: I would like to ask Mr. Johnstone a question if I may. How do you arrive at this condensing of the work week? Is it by unilateral request from management, or by union and management, or what?

Mr. JOHNSTONE: It started a few years ago as a joint request of the workers and management.

Mr. HAYTHORNE: I would like to add here, Mr. Chairman, that it had to do eventually with encouraging work in the winter months. We found it was possible for a job to be for instance, cut out on a day when the weather was particularly bad and this could be picked up later in the week; the employer was prepared to go ahead with this, so were the union members, without having to suffer much extra cost provided we had a little flexibility. This was the basis really, as a positive encouragement for more employment in the winter.

Mr. CHAIRMAN: I believe Mr. Reid and Mr. Barnett have some questions.

Mr. LADYMAN: Mr. Stevens seems to think I should emphasize what I did read on page 2 of this statement to point out the difference between the code and the Fair Wages and Hours of Labour Act, and this is what I said:

I feel that I should point out here the one fundamental difference between the purpose of the Labour Standards Code and that of the Fair Wages and Hours of Labour Act. The Code serves only one purpose, namely to establish basic minimum standards for all employees under federal jurisdiction. The Fair Wages and Hours of Labour Act, on the other hand, has served this as well as a much more important purpose, namely to establish fair conditions for federal construction. This then is the difference. The Code merely sets minimums, but this act provides for fair conditions. To our minds, the act of 1935 today no longer provides the correct basis for the establishment for fair conditions. To our Associations' minds such fair conditions are established by the full recognition of prevailing collective agreements through juridicial extension for the type of construction and trades involved, subject to ministerial approval.

Mr. KNOWLES: The matter, which it seems to me we are discussing, is whether these people on 60 hour work weeks work 44 hours at straight time and the other at time and a half, or whether they work 40 hours at straight time and the rest of it at time and a half. Is that not the difference?

Mr. LADYMAN: Would you repeat that, Mr. Knowles, please.

Mr. KNOWLES: What we are talking about boils down to a very specific difference. People at the moment who are working 60 hours a week, under a contract, work for 44 in straight time and the balance at overtime rates. This legislation would say to those same people that they shall work 40 hours at straight time and the balance at overtime rates, and it is this change that you are objecting to.

Mr. REID: The change of four hours additional overtime work.

Mr. KNOWLES: Yes; basically.

The CHAIRMAN: Maybe we should allow Mr. Ladyman to answer the question so that we do not get mixed up with too many questions.

Mr. LADYMAN: I can only answer Mr. Knowles by saying that the three trades that are mainly concerned in this field think that this is the necessary and good thing. They will be able to determine their own destiny through collective bargaining better than this act will do it.

Mr. KNOWLES: The better thing that you said these three trades want is to leave the straight time up to 44 hours rather than having it stop at 40 hours?

Mr. LADYMAN: No; I do not think so.

Mr. MACKASEY: Mr. Ladyman, if you do not change the bill you have to go under the prevailing legislation, which provides overtime after 44 hours.

Mr. LADYMAN: Even there they feel that eventually they will be able to do it through their own efforts rather than government intervention.

Mr. REID: In other words, Mr. Ladyman, would it be safe to say that the main point of your submission is that you prefer to better your conditions by collective bargaining than for the government to take action?

Mr. LADYMAN: Certainly. In the construction field we sometimes feel that the government should not even have an act pertaining to construction; we do it much better ourselves in most respects.

So far as fringe benefits are concerned, I do not like this emphasis only on the hours because the fringe benefit involves all trades—the hours involve basically three trades. But there are 19 trades that are involved in this many times and the fringe benefits are important to each and every one of them, and this is absolutely ignored in the act.

The CHAIRMAN: Are you through with your questions, Mr. Reid?

Mr. REID: Yes, I think I will pass, Mr. Chairman.

Mr. BARNETT: Mr. Chairman, some of the matters that I intended to ask some questions on have been clarified, at least in part. I think the Deputy Minister has verified one question that I wanted to ask so we could perhaps understand exactly what we are discussing, and that is the relationship between clause 2 of the bill and of subsection 2 of clause 5 under part one of the Canada Labour Code, which is the one which sets out what has been referred to in our discussion as the averaging principle.

If I am not quite clear on this I would like Mr. Haythorne to clarify it but, as I understand it, clause 2 of the bill—or indeed, the provision in the present act

in relation to the 44 hours—does make provision by action through Order in Council to implement the principle as set out in subsection 2 of section 5 of the Canada Labour Standards Code, although, as I understand it, the department so far has not considered it desirable that this averaging principle be applied. In many cases it leads to the construction industry as it operates under contract with the federal government. Is that a correct summary of the relationship between the labour code and the fair wages and hours of work act in this particular connection.

Mr. HAYTHORNE: Mr. Chairman, I think this sets out the situation fairly well. We have, in the past, under permit, if we felt it was sound in the interest of the industry, and we have joint applications, introduced some flexibility here, as Mr. Johnstone has said in the case of the four or the five day week. We do not feel though, on the basis of our experience over the years, that it is wise to depart very far from the eight and the 40, and this is the main reason, Mr. Barnett, why we did not think it was necessary to introduce the averaging provisions into the amendment. However, if at any time we felt this was a sound practice to develop—which we have some questions about—then, as I said earlier in the discussion this morning, under this provision of clause 2 where it says: "Except as the Governor in Council may otherwise prescribe," we could resort to this kind of an approach.

Our experience so far has indicated that we would be wise in this industry to stick to eight and the 44, or now the 40, as the basis for determining overtime.

Mr. RÉGIMBAL: Mr. Ladyman, I just wanted to come back to that last statement you made in which I believe you said that you are willing to put up with the 44-hour week as it stands, basically you are putting up with it. However, you would rather have the whole thing left to private initiative and the people interested in collective bargaining?

● (12.15 p.m.)

Mr. LADYMAN: That is right.

Mr. BARNETT: Mr. Chairman, I must confess that I still share some of the puzzlement that has been expressed by Mr. Knowles about the position that has been put forward by Mr. Ladyman, and also by Mr. Savage in his earlier presentation to the Committee.

Mr. KNOWLES: You mean Mr. Stevens. You called him "Savage"—the labour man's response to management.

Mr. BARNETT: Mr. Chairman, I assure you there was no association of that kind, and I think what I am about to say may clarify the point. I think I am correct in saying that by and large Mr. Stevens represents the contracting interests in Canada who have entered into collective agreements with the various unions in the construction trade. We are quite aware that Mr. Ladyman is here representing the workers who are, for the most part, quite well organized and capable of carrying on vigorous negotiations with the employing interests from time to time. Mr. Ladyman made some reference, as I recall, to the possibility of this legislation having some—I do not think this was his word, but I will use my own—"disrupting" effect upon existing contracts that have

been entered into and the undesirability in the minds of some of the unions involved that this should take place.

In this connection, I would like to know what he has to say about Clause 5 of the Bill which specifically says that this act will not apply to any contract or bids which have been invited by the government of Canada on or before the commencement of this act. Perhaps I might go on to say that I have always understood that the only purpose that some of us had in mind, particularly those of us who, like Mr. Knowles and myself, have had a fairly active association with trade union organizations, is that there should be some measure of protection provided for the bodies of workers who, up until the present time at least, have not been organized and are not in a position to bargain effectively concerning their working conditions.

Now, in this connection, and also in connection with the discussion we had dealing with the Labour Standards Code, my mind keeps dwelling on statements which I usually heard coming from the Federal administration during the Parliament between 1953 and 1957. The answer then given to proposals for a labour standards code or for some of the things which are now embodied in the Labour Standards Code was that practically all of the work force under federal jurisdiction was organized into unions and it would therefore have little application. Some of us at least have been concerned that that percentage of workers, be it 5%, 10%, 20%, whatever it might be, should at least have the protection of minimum standards. In my view the proposed minimum standards in the Labour Code are really quite modest in relation to the hopes and aspirations and indeed the achievements of some of the existing unions in their contracts. I have always felt that not only was minimum standards legislation a protection to the organized workers, but it was also a protection to the employers who were prepared to enter into agreements with unions.

I still find myself puzzled, in view of the reference that this legislation has no retroactive effect, as to why there should be this concern on the part of unions and the Canadian Construction Association in respect of the conditions that will apply in future contracts. On the one hand, I cannot understand why it would work against the interest of workers, but on the other hand, it does seem to me that it will work in the interest of the average kind of employer who has a good contract with the workmen under his jurisdiction on these jobs.

Let us leave aside for the moment, if I might suggest, this question of what is included in the term "fair wages"; in other words, the question of fringe benefits. I think perhaps this could be clarified separately, but I have particular reference to the question of overtime and hours of work. I think everybody recognizes the conditions under which highway construction works have to be carried on. In British Columbia, where I come from, sometimes it is a matter of avoiding the rain more than the frost. We have some awareness of this kind of situation.

Mr. LADYMAN: Well, speaking of your province now, which is a highly organized province there is no problem there; the forty hour week is established on all roadbuilding, but in Manitoba they can work 120 hours. This is the law, which I believe, is part of all government contracts; they ask for bids on the basis of a 120 hour 2-week period and stipulated wages. This is why I say there is the difference.

We have other areas in this country where the state of organization is not such that we have been able to get what should be enjoyed by these people who do this, in the main, most miserable work. In British Columbia they do have it organized on a 40-hour basis. There are other areas where we are gradually bringing up the standards.

This is a most competitive field. They have just not been able to do this, and they do feel that there is a competitive advantage to the unfair contractor who will take advantage, and there are lots of them who will. Some of them even belong to Mr. Stevens' Association. These people are the lowest paid groups on the jobs; they are the people who do the hard work. The sad thing is this, that they are the people who need organization the most and really appreciate it the least in the beginning. They are very, very hard to organize. The three particular trades involved feel that this is giving an advantage to the unfair contractor who will be able to keep them in this state for the rest of their lives. They are genuine in this.

I find it a little foreign because, being an electrical worker, this is not a problem which we have. Our people are craftsmen; they have been able to look after themselves over the years, and they will continue to do so in the future, with or without legislation. We can do this. These people are not in this happy situation. They are the people who do the dirtiest work under the poorest conditions, but really they are the hardest to organize. It may seem to you, gentlemen, that it is just a matter of walking down the road and saying to them, "Join a union; you will be better off tomorrow." It just does not work that way. We feel that these people will eventually be looked after by unions if we are left alone to do it in our own way.

Now, I cringe when I think of the type of agreement which was quoted over here. As I said, I still do not agree with the sixty cents; I do not think that is correct. There are situations in this country today in isolated areas, as I have tried to suggest, in projects, where actually the contractor or group of contractors will, in conjunction with the Unions concerned, agree to work longer hours. Sometimes there are accommodations made because of the wish of the man on the job. Rather than sit in the bush doing nothing for two days during a weekend, he would prefer to work, even if it be on straight time. Now this is sometimes done, and I point this out to indicate that the jobs we are talking about are basically the isolated projects and the long road building away from civilized points where the man is not at home and he wants to work long hours. This is something that they have accepted; it is part of their way of doing business. If we restrict them to forty hours or forty-four hours, then this is what they will work. Even if they get an increase in wages, their take-home pay will still be less. This is also important.

Mr. STEVENS: Mr. Chairman, could I supplement what Mr. Ladyman has said? To answer Mr. Barnett's point with respect to Section 5 of Bill C-2, which is really the origin of your question relating to contracts and the retroactive application, if I understood you correctly, Mr. Barnett, the point here is that this section, to my understanding, concerns federal construction contracts. The contracts which Mr. Ladyman has asked and our organization members have asked not to be interfered with are collective agreement contracts, labour contracts. So perhaps that clarifies the point of your real question, as I understood it, Mr. Barnett. That is all I have to say.

Mr. BARNETT: Mr. Chairman, it certainly was clear in my mind that this was referring to federal contracts, not to labour contracts or union contracts.

Mr. STEVENS: I must have misunderstood you. I am sorry, Mr. Barnett.

Mr. BARNETT: We will consider the question of a federal contract inasmuch as the illustration of highway construction work has been brought into this discussion. I think it has been quite correctly pointed out that the federal government's operations are only a very small part of the whole picture, or the paving of airfields, in areas where existing working conditions in respect of hours and wages are less favourable than those proposed in this Bill. Is it not correct that all contractors bidding on a federal government job would know in advance of putting in any bid on a particular job that they would have to comply with the terms of this act? I cannot see where, under those circumstances, one contractor, whether he had a union agreement or not, would be at a disadvantage over another in respect of at least complying with the basic minimum. Now in reference to the suggestion that there are contractors who cut corners, is not the answer to this a matter of proper policing of the act by the Department to ensure that the workmen in fact do get at least the minimums that are provided under the Act or that they are paid what are the fair wages established under their wage schedules. These are the questions that are in my mind. If I might address a question to the Union spokesman in this field, would this not be of some assistance, so far as the organizing effort of the union is concerned, to at least ensure that minimum decent standards apply; indirectly, this may serve to influence the general pattern that may prevail within a particular region where lower standards prevail. I might just add that I have heard complaints from time to time about the invasion of certain areas of British Columbia by contractors from areas where lower standards than prevailed in British Columbia applied, not in respect to federal government contracts but in the general picture. Now I have heard the argument advanced that minimum standards would make it easier for the contractors of British Columbia and the Unions to protect themselves against this kind of invasion.

● (12.30 p.m.)

Mr. LADYMAN: It does not always work that way. The minimum standard becomes the maximum so often. In fact we argue this in negotiations every year. We do not bargain for maximums; we bargain for minimums, but once the agreement is signed that always becomes the maximum. It is the same in this area; if you have a collective agreement in an area covering a group of people and there are non-union contractors in the area then the non-union contractor will certainly bid the lowest possible figures that he can bid and undercut the fair contracts in the area. It does not matter about his efficiency always; the money is the important thing, and they will get the job. Now the man who does get the job is prepared to pay the minimum; he must pay the minimum, but there are things established in the area for these people. They have welfare benefits now; the tradesmen have things today they never had years ago and, as I say, it goes up to 50 cents an hour and more than that in some cases. These people are entitled to this. This is a fringe benefit surely, but it is also a part of the wages he earns and that the one contractor must pay. You, on the other hand, say the other one does not. If you can get that kind of a contractor you

are going to do all your work without paying fringe benefits, which are amounting to quite a lot of money. Thirty years ago vacations with pay, sick pay, welfare benefits, insurance and statutory holiday pay was unheard of in these fields. But it is an accepted thing today, and we do not see one contractor being allowed to bid on your work and not face the facts of life. Now it could be said that the minimum wage establishes some protection for the organized people. Now, I do not think this is correct. The establishing of fair wage acts or minimum wage acts actually has always worked to the detriment of the unions engaged in organizing, and very often over the years it has worked to the detriment of the people who requested these things in the beginning because why should I join a union if you, as a government, guarantees me what the union is going to get me. In Manitoba this has very definitely had a detrimental effect on the state of organization in that province. They have a fair wage act, and the day I sign an agreement for an electrician every electrician in the province will get that rate. Well, I do not bargain for all the electricians in that province; I bargain for the I.B.W. electricians and that is the rate that should be paid. As a consequence there are many people there who, as I say, say, "Why join a union; the government legislation guarantees me all this." Well, we are not ready to relinquish our field in collective bargaining as yet to the government. I do not think he wants us to. Yet, in effect, this is what we are intending to do here.

Mr. BARNETT: Mr. Chairman, to clarify my own position, I thought I made it clear that I consider minimum standards to be a primary benefit to the unorganized people rather than the organized. I was raising a question about the indirect effect of unions dealing in certain areas where lower standards prevail. If I might just add a bit of my own philosophy here, so far as I am concerned, if any worker is content to remain at a level of \$1.25 for work that requires skill or a good deal of energy then perhaps he should have to suffer for that attitude.

Mr. STEVENS: I will supplement what Mr Ladyman said to Mr Barnett, if I might. He was talking about enforcement and I think the record will show, Mr. Chairman, that at the meeting last Thursday the employer spokesman, myself at that time, pointed out very strongly that for many years—and the Department can confirm this and I can produce the brief—our association had requested the federal government to increase this enforcement of the schedules, to police the work. We have asked this for years—long before we prepared this joint presentation, and we asked it on our own as employers, as responsible employers I would say, and we have no objection—and this record will show—to the penalties which the Minister described as the teeth. There were some penalties which I pointed out last Thursday morning, namely the assessment of wages, of underpaid wages, which amounted—I think I quoted from the annual reports of the Federal Department of Labour—to \$150,000 up to \$350,000 a year depending on whether we were in a recession or a boom situation. This fluctuates; it depends on the over-all total federal volume of production, of course, too; but it is a very small percentage when the Federal Government spends in the vicinity of \$3 million to \$4 million, of underpaid wages, and in spite of this situation we have still as responsible employers repeatedly in 1958 and 1959, when we were faced with a different Government at that time, asked for better enforcement,

and only since the passage of the Labour Standards Code has Mr. Johnston now got some more people to do this. There is no objection on the part of responsible employers to maximum policing; in fact the Quebec Act, to which this joint brief refers, does this under statutory authority of a joint parity committee which meets weekly, made up of labour and management, and they have the statutory right to prosecute and levy the penalties. There is something like 1200 to 1500 prosecutions a year in the city of Montreal.

(Translation)

Mr. ÉMARD: Did the labour movement in the past make any recommendations to the federal government regarding the "juridical extension" of collective agreements in the construction industry?

(English)

Mr. LADYMAN: Not to the Federal government; at least, I am not aware of any.

(Translation)

Mr. ÉMARD: Are there provinces other than Quebec where the system is applied just now?

(English)

Mr. LADYMAN: There is no other province that I know of.

(Translation)

Mr. ÉMARD: If "juridical extension" was introduced by the federal government, do you not think that parity committees throughout Canada would be too costly in this regard?

(English)

Mr. LADYMAN: I do not think so. To tell the truth I have not considered this.

(Translation)

Mr. ÉMARD: It was mentioned in a brief which was tabled last week. That is why I am talking about it today.

(English)

Mr. LADYMAN: I was not here last week and I did not see the brief that was presented, sir.

Mr. STEVENS: Mr. Chairman, if I might answer that point. The brief asked for the adoption of the Quebec concept. You will see it is asking for more enforcement at the discretion of the Government. We did not ask for a national parity committee for this purpose parallel to the ministerial discretion in Quebec; for example, he fears there may be provisions, sweetheart agreements, which could arise in certain situations with some odd organization from the labour side perhaps, and also perhaps some odd contractors. We are not concerned with that aspect of it. We are concerned with the philosophy of establishing fair conditions, which this Act is supposed to do—not minimum but fair. The Quebec philosophy, which is unique in Canada, of extending the agreement as negotiated subject to ministerial discretion and government

enforcement in an improved way as we feel now we have the assurance will be carried out.

(Translation)

Mr. ÉMARD: I understand that you did not ask for a committee but it seems the only way in which some control could be established over the legal extension.

Do you think that the contractors whose workers are not unionized are facing unfair competition when they work for lower salaries and do not have fringe benefits?

The CHAIRMAN: To whom was your question addressed?

Mr. ÉMARD: To Mr. Ladyman.

(English)

Mr. LADYMAN: I do not think that they do have the fringe benefits. We find them very loath to give any fringe benefits at all unless it is required by the law, and even there they will get around the law. Now, in Quebec you have this joint parity board, and I understand it is contributed to by both the employee and management. The organization and management must contribute one half per cent payroll each. Now they do an excellent job of policing. We do not find this policing in other areas of Canada. There are laws but there is not enforcement. We are talking about now when it comes to hours of work. Our people tell us the policing is non-existent there, and fringes are non-existent also.

Mr. MACKASEY: Could I interject here, Mr. Chairman, to point out to Mr. Ladyman that if it is only road builders that are concerning you it is practically nil so far as federal government contracts are concerned. We have a little bit in the National Parks and beyond that there is nothing.

● (12.44 p.m.)

(Translation)

Mr. ÉMARD: Perhaps I could repeat the first part of my question. Do the contractors whose workers are not unionised face unfair competition from other contractors?

(English)

Mr. LADYMAN: We feel they are very definitely unfit.

Mr. STEVENS: And our association endorsed that view point, you will have noted, last Thursday. I might, if I may Mr. Chairman, add two things of which Mr. Ladyman has spoken which are also equally crucial to the contract. First of all Mr. Johnstone here has referred to overtime service. Now a contractor will bid on a big job, for example, some work on the twinning of the St. Lawrence seaway; there the seaway authority, in its wisdom, established a labour agreement before these contracts were called. Technically, at that time the Department was not able to recognize those rates when tenders were called, nor does the contractor have an assurance of what overtime he will be able to work in advance. This makes it so vital from the contractors point of view that there should be preheir agreements and a clear-cut statement on overtime in all tendering conditions. This has been a major worry—and Mr. Johnstone is well

aware of that, I think—it has been a major worry to contractors because you are taking a chance. If you are out in the sticks are you going to get 60 hours or are you not? You do not know; you have nothing in black and white; you are taking a gamble, as contractors always have to do. You do not know what the weather is going to be. You might have a rainy summer like Saskatchewan had last year. Two months of heavy road building work was lost because of an extremely rainy summer. This is a gamble you always run. Over and above that, you do not know whether or not you will get overtime. Under the present conditions you have to apply after you have been awarded the contract. There may have been exceptions, but what I am saying applies to normal situations.

Mr. MACKASEY: If there is any other opinion, I would like to hear the other side.

Mr. JOHNSTONE: Mr. Chairman, on the question of the overtime permits, they can be obtained in two ways. They can be obtained after the contract is let provided they (the contractor and the contracting department) establish that there are emergency circumstances warranting the permit, or they can be obtained in advance of that by the contracting department asking for a schedule. It is quite a regular procedure that when a department asks for a schedule for a contract in the far north or at world Expo, they will say that because of the emergency circumstances and the need to get this work done in time, "will you please put an overtime permit in the schedule?" Then that is included in the specifications put out to tender. All contractors know that they can get a permit where circumstances warrant it and they know that they have to pay overtime, after 8 and 44 hours. The regular procedure in a great many contracts is to put the overtime permit in the schedule when it is sent out if the contracting department makes its case. Practically all of the contracts at world Expo, at least over a hundred of them, contain that permit when the schedule is made up and nearly all schedules made for the far north contain that kind of permit.

Mr. STEVENS: Mr. Chairman, I am not disputing what Mr. Johnstone has said at all; this is perfectly correct. Nevertheless, it has happened, and I am talking now of what has been happening over the last 5 to 10 years, Mr. Chairman and members. These are exceptional cases such as Expo, DEW line and that sort of thing. However, on the whole, I have found, and I am sure Mr. Johnstone can substantiate this, that over this period I have had to call him and ask him whether the possibility existed, before tenders closed, for the department to declare its position and whether or not on this work overtime permits would be granted. Let us forget about Expo, which is a unique situation and we probably will not have it for a while again, and let us also forget about the DEW line, which we might even dismantle one of these days. On the whole, these situations have been exceptions rather than the rule in the minds of the contractors for whom I can speak.

Mr. JOHNSTONE: I am sorry, Mr. Chairman, but I do not agree with what Mr. Stevens has said in regard to the department declaring its position. We do not declare our position; we wait until the contracting department tells us whether there is a case for an overtime permit and if the department that lets the contract establishes its case when they ask for a schedule, I do not know of any case right now where we have refused to give them that permit in advance.

Mr. STEVENS: I think I can cite one case which comes to my mind, Mr. Chairman. I am referring to an airfield in the Moose Jaw area. National Defence Construction Limited would be the federal contracting agency rather than the department in this case. I may be wrong, but there have been cases where a contractor asked in advance, and I think the contracting agencies supported it, and he could not get a commitment on this point at that time. This goes back 3 or 4 years, and at that time there was unemployment in that area and the department deliberately, as a matter of policy, held down the hours in order to offer more employment. This again is a situation which is fine in theory, but in the industry it does not work out in practice under certain situations. From a contractor's point of view, each additional man you put on your payroll costs you so much overhead money, so you try to keep your labour force to a reasonable volume which you can handle. It still remains a problem to the contractor if, for example, a pre-hire agreement cannot be recognized so that he knows what the precise situation is. Labour and management have created this problem together.

The CHAIRMAN: I understand Mr. Émard still has one question to ask of Mr. Stevens.

(Translation)

Mr. ÉMARD: I have two as a matter of fact. Since I have been a member of the committee, this question keeps coming back and that is the one of overtime. Is that the only important question, is it a question that is really more important than the others.

This question keeps coming out and it seems to cause some amount of debate, and I was wondering if it is an outstanding one.

(English)

Mr. LADYMAN: No, this is not the only question. Overtime is a very important question, there is no doubt about it, but the overriding question is the entire principle of fringe benefits. There are many fringe benefits that are important here which are not taken into consideration. The statutory holiday pay is part of the grievance. Vacations with pay are ignored in some areas when it's possible to do it. We have as much as 7 per cent vacation pay in some of our agreements. They will pay the absolute minimum.

The matter of group insurance is also a welfare payment and a fringe benefit. In some cases it amounts to well over 50 cents an hour. In others, some unions prefer to take the money in take-home-pay because of their own structure. It may be only 7 cents an hour, but you cannot ignore 50 cents or even 7 cents an hour if the man is entitled, under a collective agreement, to get that money. If there is any other way of contracting that work which denies him that right, then we must oppose it and this is what is being done, we think.

(Translation)

Mr. ÉMARD: Mr. Ladyman, in your opinion, would a system based on the concept of legal extension, as in Quebec, settle the problems that you have in the case of the bill we are studying now, C-2.

(English)

Mr. LADYMAN: To a great degree. I do not agree with everything you do in Quebec and the decrees are certainly an embarrassment to us in the construction field in many ways, but it does have its good facets.

Mr. McCLEAVE: I have one question for either of the witnesses. Have they estimated the effect on highway construction workers' annual income if they were to be placed on a 40 hour work week.

Mr. LADYMAN: I would say it is possible that you would reduce their income by one-third.

Mr. BARNETT: Mr. Chairman, I have one or two questions that lie in a somewhat different area. They relate in part to some of the arguments presented by Mr. Stevens at an earlier meeting. He may recall that I asked him at one point, in reference to the brief presented, whether the main purport of it was to point not so much to what was in Bill C-2, but as to what was in the present act which, as has been noted several times, has been standing in its present form since 1935. I presume that in presenting the brief he had in mind that this committee might consider not only what is proposed in the Bill, but what other possible amendments or considerations we might think of now that the act has been opened up.

There has been a good deal of discussion about the development of what are often referred to as fringe benefits since 1935 as part of union agreements. Certainly there is some question in my mind as to whether the act, as it is presently worded in its reference to the interpretation of what constitutes wages properly, allows for consideration in the establishment of what are considered to be fair wages for some of these matters. Perhaps I could pinpoint this by inquiring whether, in the definition of fair wages, consideration has been given to modification of the existing definition section which might include some such phrase after the words "means such wages", as "employees' benefits". This is in the first line of the definition of fair wages.

Perhaps while I am on this point I might raise one other question, and that has to do with the reference to the definition, "in the district in which the work is being performed for the character or class of work." Now comparing that with the definitions which are expanded upon in the fair wages policy regulations of the government, I find under schedules B of 2(C), at the bottom of that paragraph, it has reference to the term "current wages" and the term "hours of labour fixed by the custom of the trade." It goes on to say:

In the foregoing are meant respectively the standards of wages and hours of labour either recognized by signed agreements between employers and workmen in the district from which the labour required is necessarily drawn or actually prevailing.

Now I know that we had some earlier suggestion about the fact that labour, particularly in the steel trade, is much more mobile today with air travel and all that goes with it, and the undertaking of major construction projects is much more mobile in respect of going to jobs in certain areas than probably was the case in 1935.

I am wondering whether some modification might be considered of the definition section after this reference to "in the district in which the work is being performed" to include within the act a phrase which would be comparable

to the one in the regulations "in the district from which the labour required is necessarily drawn". If that were added to the expression "in the district in which the work is being performed" or "from which the labour required is necessarily drawn", this might enable it to be clearly established in the act for the guidance of the administration of the department. It may be that this factor should be taken into consideration in establishing the various wage schedules from time to time. So there are those two points, apart from this question of overtime which I wanted to bring up. I would be interested in having the committee consider, perhaps on the basis of a statement from the department initially, whether there might be any merit in such a modification of the definition.

The CHAIRMAN: Well, I understand Mr. Ladyman would like to make a short answer with respect to your remark.

Mr. LADYMAN: I agree with what you are suggesting sir, but perhaps there should be a little more emphasis on the fringe benefits which are so important to us today; they are part of the man's current wage. However, it is not recognized as such by the federal government or by the provincial government. I could give you an outstanding example of what I mean that is happening right now and has actually closed two jobs in Toronto in recent weeks. Metro Toronto recognises the collective agreements in the area. They have the wage rates established on a schedule and they pay those rates plus so many cents per hour for fringe benefits. Now every contractor knows that this is what he is faced with when he bids. Toronto proper observes the same schedule and pays these rates.

Ontario Housing Corporation are now building houses in the Toronto area. They are governed by a term of reference from the Ontario Government which says the wage rates that they will pay will be determined by the federal department of labour as the prevailing wage rates and that is the rate with no conditions, no fringe benefits or anything else. Now here is a most unfortunate situation because of the lack of some accommodation for the paying of fringe benefits, and it will be settled in Toronto because, whether they like it or not, they will pay the fringe benefits or there will be no public housing built. This is just how simple it is. Now why should it not be stipulated to avoid this kind of thing from happening?

The CHAIRMAN: Gentlemen, it is one o'clock. Is it the wish of the committee to carry on until 1:15?

Mr. MACKASEY: Perhaps if we sit for another five or ten minutes, it will prevent Mr. Ladyman from having to come back. I only have one or two questions and perhaps Mr. Haythorne might have a statement. You mentioned, Mr. Ladyman, vacations with pay. Is it not a fact that contractors, even working on federal contracts are governed by provincial legislation?

Mr. LADYMAN: Yes.

Mr. MACKASEY: And is it not a fact that there is only one province in Canada that does not have vacation with pay?

Mr. LADYMAN: Yes.

Mr. MACKASEY: Therefore, would you not have to provide vacation anyway whether it is in the federal contract or not?

Mr. LADYMAN: You surely do, but you provide the minimum which can be 2 or 4 per cent depending on what province you are in. Our agreement has 6 and as high as 7 percent.

Mr. MACKASEY: Are you now talking about the I.B.W.?

Mr. LADYMAN: No. I am talking about trades. We are not alone in this.

Mr. MACKASEY: You are talking about skilled trades?

Mr. LADYMAN: Yes. Now what we get eventually does apply to these other people—I do not like to call them unskilled; they are skilled in their own field and any contractor who is honest will admit it. The labourer is skilled in his own particular work, the operating engineer is certainly skilled, and the teamster is skilled, but they are basic trades. Now they tend to follow actually the skilled trades. The crafts usually do set the pace and they come along afterwards, but as of now the minimum should apply under the provincial law, as you say. However, this is not what we have earned and received through collective bargaining, and is a part of the agreement which you should be dealing with.

Mr. MACKASEY: Well, Mr. Ladyman, in all fairness to you, you are talking as a union man should.

Mr. LADYMAN: I hope so.

Mr. MACKASEY: And Mr. Stevens was talking as a contractor. There is also a third class of people, perhaps too numerous for your liking and my liking, who are non-union workers and still have certain rights, one of which is to earn pay outside a union, even if they are ill-advised in doing so. This minimum wage does give them some degree of protection against exploitation which is the purpose of the act. Now, apart from the fact that as one who has been on the successful end of collective agreements all your life—

Mr. LADYMAN: Not always; I have taken an awful beating sometimes.

Mr. MACKASEY: Well, I have taken them too. I remember working for the I.B.W. for 30 cents an hour which is not a great deal of money, \$12 a week, and the first ten was taken for union fees.

Mr. LADYMAN: Do you mean ten dollars or ten cents?

Mr. MACKASEY: I do not regret it. However, the fact still remains that I would like to ask you one or two specific questions. The point I am getting at is, apart from having a general aversion to this type of law in general.

As a labour man, do you not prefer overtime after eight hours and forty than eight hours and forty four?

Mr. LADYMAN: Yes; I cannot disagree with that.

Mr. MACKASEY: Secondly, do you not think it is more logical that it be a forty hour week rather than a forty-four hour week?

Mr. LADYMAN: Yes, I do. It is logical with this exception, that we are talking about specific projects here and because of their circumstances they demand different treatment.

Mr. MACKASEY: But in these special projects, Mr. Ladyman, I think you and I both agree that you are referring to the length of the week. However, presuming that because of ministerial discretion, permission is granted for an abnormal work week, you still would not want to sacrifice the principle that overtime should begin after forty hours.

Mr. LADYMAN: No, speaking for myself and my own organization.

Mr. MACKASEY: If you take these two facts out of this bill there is nothing left. All we are doing, actually, is bringing the forty-four down to forty and re-establishing the fact that overtime should be paid after eight hours. This is not Mr. Stevens' concern; I am talking as a labour man to a labour man. The working conditions are your concern and my concern at the moment.

There is a provision in here for ministerial discretion in the abnormal type of condition that seems to worry you, and rightly so. You send a labourer up to a certain area at \$1.25 and he is going to be limited to a 40 hour week; it is hardly worth while for him to travel several hundred miles to the project. He suffers real hardship until such time as he can get his pay up to \$2.00 an hour through negotiation. However, there is a clause which takes into consideration these events with special significance to the projects which you mentioned.

Mr. Johnstone pointed out that in the specifications the rate of pay for all classes of people on the project are outlined, there is not just a minimum of \$1.25 an hour and then let everybody hustle for the rest. In federal contracts we do go up as high as \$4.00 for skilled labour. So it is not quite as bleak as we have pointed it out today where minimums may become maximums.

I would like to take advantage, Mr. Chairman, of the moment to apologize for any unintentional reference to the 60 cents an hour; I meant 60 hours a week.

I have one or two other points, however, that I would like to read into the record, Mr. Ladyman. The Metro Toronto Roadbuilders, which I think you mentioned before, have a contract here providing—

Mr. LADYMAN: No. I was talking about house building, residential houses.

Mr. MACKASEY: Mr. Stevens mentioned on Thursday that roadbuilders was one of the classifications he would like to see set up; he said he would like four classifications, including road building. In Metro Toronto it is 55 hours a week before time and a half and no fringe payments. In Windsor, 50 hours a week straight time; no employer paid contribution. In Metro Toronto sewer and water main contractors, 50 hours a week before time and a half. In London, Ontario, 48 hours before time and a half. These are not up in the backwoods where local working conditions prevail. The point I am getting at is that the federal government is not taking refuge in prevailing conditions in certain areas; they are willing to go well beyond it by putting in the minimum of \$1.25 an hour. According to Mr. Johnstone, nobody is affected west of Ontario anyway with the \$1.25 because everybody is receiving more than this.

Mr. LADYMAN: That is right.

Mr. MACKASEY: After all, you are here at the request of Mr. Stevens.

Mr. LADYMAN: No, I am not here at his request.

Mr. MACKASEY: I apologize for that inference. One thing that Mr. Stevens admitted to me on Thursday is that his objection to the reduction of 44 hours to 40 hours for overtime is strictly a monetary problem. This is what confused me, that labour and management would be signing an identical brief, and that is why I asked you if you would not prefer the 40 hours rather than the 44 hours.

Mr. LADYMAN: I established the first 40 hour work week in the Province of Saskatchewan in 1940, I think it was, or shortly after that, and I have always fought for shorter hours. I must repeat that when we are talking hours we are talking about the three basic trades who feel, with their employers jointly, that there must be extended work weeks on this type of work.

Mr. MACKASEY: I must agree that provision is in the act for that type of extension, but the act does say that regardless of whether you get that extension by the government or not, you must start paying your overtime at the end of 40 hours. Do you agree with that principle?

Mr. LADYMAN: I surely do.

Mr. MACKASEY: There is nothing else in the bill.

The CHAIRMAN: Mr. Haythorne, do you have a very short statement to make?

Mr. HAYTHORNE: Well, I can make it very short.

The CHAIRMAN: I thought Mr. Mackasey referred to you a moment ago.

Mr. MACKASEY: I thought Mr. Ladyman might want to hear it from Mr. Haythorne.

Mr. BARNETT: If it is in reference, of course, to a question that I raised, I would be quite willing to hear him.

● (1.13 p.m.)

Mr. HAYTHORNE: Well, Mr. McCleave asked me on two occasions to make comments on the departmental position with respect to all of the points in the brief. I do not know if you want to take the time to go into all these matters this morning, but I would like just very briefly to comment on, as we see it, the two principal points which seem to have come up repeatedly. One of these, of course, is hours of work and the other is fringe benefits. Now, these two are closely interrelated, it seems to me. On the one hand the Union and management briefs seem to be suggesting that we should depart from the principle, which we have had in our Act all along, of having basic standards for working conditions. They are rather suggesting that we leave that to collective bargaining. On the other hand, they are saying that in so far as the determination of wages is concerned they would like to see our legislation going even farther than it does, by stipulating what the additional wages-in-kind items are that could be added to the basic wage.

We fully recognize the role of collective bargaining, and I just want to emphasize that in our Labour Code we found last year that we, through the Code, were able to protect not only the non-union members, Mr. Ladyman, but sometimes the Union members, against themselves, in introducing a provision for a socially acceptable standard for the country as a whole, which is in advance of some localities. This in effect, is what we are doing here.

I think, too, we have to recognize—and Mr. Stevens made some reference to this earlier—that in periods of high unemployment it may be important, from a national point of view, to reduce hours, even though, from the standpoint of the parties to a collective agreement, it may not, from perhaps their own more immediate point of view, seem to be the most desirable thing to do.

I would like just to say here, on this question of hours in the northern areas, Mr. Ladyman, that from our experience we have not found the Act under much resistance from the employers to paying overtime rates after 44, and I suspect we will not find much hesitation in paying them after 40. Therefore, it seems to me that what we are doing by retaining this overtime provision in the Act after 40 is making the work on these northern jobs more attractive by requiring overtime rates rather than leaving the situation free for some employers—and maybe some unions, too—to take advantage of longer hours without any overtime rate.

If I could turn quickly to the other point, the fringe benefit item, we understand the interest here of both management and unions to extend the provisions in certain areas where the patterns have been established on the basis of collective bargaining. I think most of the discussion has turned on the payment to a welfare fund of a certain number of cents per hour for each employee covered by the welfare clause.

We have three main reasons for rejecting the recommendation that we include these items along with the cash wage. First, the initial task of determining in each locality where government work is undertaken whether such payments do prevail for each class of employees included in a fair wage schedule would be very substantial. The administrative difficulties in applying such employer-paid contributions to the employees of the main contractor and to the employees of the subcontractor—which can be as many as twenty to forty on a large job—for the duration of the contract, are so complex and numerous that it would be impossible to carry out this program without a great enlargement of staff and additional expenditure of the taxpayer's money. The effort required would outweigh, we feel, the benefit to be derived. We have a national hospitalization plan in Canada and a pension plan; we have a comprehensive system of workmen's compensation; we are moving towards a medicare plan. We have legislation on annual vacations in almost all parts of Canada, and legislation on public holidays in most of the provinces. While it is open to the industry to negotiate welfare plans, it is a question whether the federal government, through its contract program, should enter into, or interfere in, this field.

The second main concern we have is that only a very small part of the total construction industry comes within federal influence through federal government contracts. As I am sure Members know, this industry is primarily subject to provincial regulation. It is not an industry coming under federal jurisdiction. We enter this industry only indirectly. For this reason, we have wanted to keep

the federal standards confined to the basic wage rate and to the hours of work. If we go beyond this, we have this very real concern: Where do we start and where do we stop? We have discussed this with the provincial people on various occasions. The provincial governments, I know, would very much prefer that we stop where we are now rather than getting into other areas of regulations which come directly under their prerogative.

Thirdly, we do not want to introduce through legislation conditions that would prevent the small contractor from being able to bid on the types of jobs he is able to perform.

It is our feeling that the question of a fringe benefit really boils down essentially to a matter of either provincial regulations or legislation on the one side, or collective bargaining on the other, and that we, through our legislation here in providing these two basic and simple provisions which have stood the test of time, are providing, as it were, the floor, or the basis here, and with the flexibility that we have in the Act we think we can take care of the kinds of situations where adjustments are needed.

Thank you, Mr. Chairman.

The CHAIRMAN: The Committee agrees to adjourn until Thursday at eleven o'clock in Room 307.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

THURSDAY, MAY 26, 1966

WITNESSES:

From the Department of Labour: Hon. John R. Nicholson, Minister; Mr. G. Haythorne, Deputy Minister; Mr. H. Johnston, Director Labour Standards Branch; Miss Edith Lorentson, Director of Legislation.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,	Mr. Hymmen,	Mr. McKinley,
¹ Mr. Boulanger,	Mr. Johnston,	Mr. Muir (<i>Cape Breton</i>
Mr. Duquet,	Mr. Knowles,	<i>North and Victoria</i>),
Mr. Émard,	³ Mr. Lefebvre,	Mr. Racine,
Mr. Fulton,	Mr. MacInnis (<i>Cape</i>	Mr. Régimbal,
² Mr. Gordon,	<i>Breton South</i>),	Mr. Reid,
Mr. Gray,	Mr. Mackasey,	Mr. Ricard,
Mr. Guay,	Mr. McCleave,	Mr. Skoreyko—(24).

¹Replaced by Mr. Clermont on May 25, 1966.

²Replaced by Mr. McNulty on May 25, 1966.

³Replaced by Mr. Tardif on May 25, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

WEDNESDAY, May 25, 1966.

Ordered,—That the names of Messrs. Clermont and McNulty be substituted for those of Messrs. Boulanger and Gordon on the Standing Committee on Labour and Employment.

Ordered,—That the name of Mr. Tardif be substituted for that of Mr. Lefebvre on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

REPORT TO THE HOUSE

THURSDAY, May 26, 1966.

The Standing Committee on Labour and Employment has the honour to present its

FIRST REPORT

Your Committee has considered Bill C-2, an Act to amend the Fair Wages and Hours of Labour Act, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (issues Nos. 1 and 2), is appended.

Respectfully submitted,

GEORGES LACHANCE,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1966.

(5)

The Standing Committee on Labour and Employment met this day at 11:15 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Guay, Hymmen, Knowles, Lachance, Mackasey, McCleave, McKinly, McNulty, Muir (*Cape Breton North and Victoria*), Racine, Reid, Ricard, Tardif—(18).

In attendance: From the Department of Labour: Hon. John R. Nicholson, Minister; Mr. G. Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnston, Director of Labour Standards branch; Mr. W. B. Davies, Departmental Solicitor.

The Committee resumed consideration of Clause 1 of Bill C-2.

The Minister and officials of the Department of Labour were questioned by the Committee.

*Agreed,—*That Clauses 1-6, the title, and the Bill be adopted.

*Agreed,—*That the Chairman report the Bill to the House without amendment.

The Chairman thanked the Minister, the Deputy Minister, the various officials of the Department, the representatives of the Canadian Construction Association, and the representatives of the Association of International Representatives of the Building and Construction Trades for their valuable contribution throughout the proceedings.

The Chairman adjourned the meeting to the call of the Chair, at 12:30 p.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, May 26, 1966.

● (11.00 a.m.)

The CHAIRMAN: Gentlemen, we have a quorum. We will resume consideration of clause 1 of Bill C-2. Mr. Barnett, you raised a question the other day. Do you have any further questions?

Mr. BARNETT: Mr. Chairman, as you may recall, at just about the end of our last meeting I raised two questions about clause 1 of the bill, which has to do with the interpretation of what is meant by fair wages in the rest of the act. In my view, in many ways, this is the real substantive part of the act, in the way it can be applied. I think Dr. Haythorne had dealt in some detail with the first question in respect of whether or not wages in the act should be defined as including employee benefits. However, the second question had to do with the phrase in the bill and also in the act as it now stands concerning the district in which work is being performed, and I drew attention to the reference in the Regulations which have been issued under the title of the fair wages policy of the Government of Canada and to the fact that this is expanded somewhat. So, there is provision made in the regulations to take into account the district from which labour required is necessarily drawn. I raise the question whether or not in the light of circumstances that have changed in the nature of the construction industry since 1935 it might be advisable to amend slightly the long standing definition in respect of the district in which work is being performed. I think it might be useful if we could have some information as to whether or not this might be considered as an amendment to the act as it now stands which would mean, of course, amending the bill that we have before us. Might we have some discussion on this point.

The CHAIRMAN: Have you any clarification to make on this Dr. Haythorne.

Mr. HAYTHORNE: Mr. Chairman I was aware that I had not dealt with the second question that Mr. Barnett had raised at our last session. The members of the committee will recall that we were rather hurried at the end, tried to get finished and I was making my comments mainly on the first, which seemed to be the important point for discussion at that time. Perhaps by inference I dealt with it, but I realize that I had not dealt with it directly. I would just like now in the light of what Mr. Barnett has said this morning to say that we have followed the practice in the past, as he has pointed out, under our policy order of applying to the definition of the word "district" in this case and to the definition of "fair wages" for the character or class of work a fairly liberal

interpretation so if, as I mentioned the other day in the case of Cold Lake, it was necessary to bring in from outside that part of Alberta highly skilled people to do structural steel work that we can assess a fair wage for such classes of skilled workers which has a broader application in terms of a territory than we do for some other categories of workers who are found immediately in that area. So, we have under the policy order given that broader interpretation which we think is consistent with the act since under the act itself we have powers for issuing regulations. The very first of these powers is set out in Section 6, subsection A of the act which reads:

The Governor in Council, on the recommendation of the Minister, may make regulations with regard to wages and hours of work—

and,

(a) the method of determining what are fair wages and the preparation and use of schedules of rates relating thereto;

We would feel, Mr. Chairman, that we can deal with this problem under the the Regulations. We have followed this practice in the past. We have not run into any problems in so interpreting the act or the policy order which has been developed under the act, and I see no real difficulty in the future.

Mr. BARNETT: Mr. Chairman, I had noted Section 6(a) of the present act to which Dr. Haythorne referred. I realize that sometimes it is a bit difficult, for those of us who are layman in the sense that the legal fraternity refer to such matters, to understand fully the intent of certain words or phrases in the act; however, I think the governing principle is that the power of making regulations is limited in the last analysis by the actual wording of the act which under certain circumstances may require interpretation in the Courts. Now, I take it that this sort of situation has never developed in respect of the Fair Wages and Hours of Labour Act so that we have not anything more than individual opinions on what the limitations are in the phrasing, "district in which work is being performed" in the definition section of the act, as against the authority given to make regulations in section 6, in the method of determining what are fair wages. In view of the concern that has been expressed in representations that have been made to the Government and to the Committee, it did seem to me that this was an important point that did require some clarification so far as the Committee was concerned, in determining whether or not the Committee should consider making any recommendations for any further amendments to the act than those that are now contained in the bill we have before us. I may say, Mr. Chairman, that I felt that many of the questions that were raised in the submissions to Committee really revolved around the manner in which the act was being administered rather than around the question of making changes to the act as it stands. Certainly on this particular point there is some question in my mind whether it might not be desirable to consider some redefinition or expansion of the phrasing in the definition section of the Act.

Now, I have put forward my point, Mr. Chairman, and the Deputy Minister has given the explanation of the functioning of the Act as he sees it, in his experience, which, of course, is undoubtedly greater than any of the members of the Committee. I will have to leave the matter in the hands of other members of

the Committee as to whether or not they feel there is a consideration here that would require further discussion.

Mr. HAYTHORNE: Mr. Chairman, I wonder if I could ask Mr. Johnstone to make any further comments he might have on this point because he has been associated with the administration of this Act a good deal longer than I have. I would appreciate any comments that Mr. Johnstone might have on the question of handling this satisfactorily under the regulations.

Mr. JOHNSTON: The paragraph that Mr. Barnett referred to is in schedule A of the policy order and it is also in schedule B of the policy order. The policy order, by the way, predated the act. The policy order was started back in 1900, and because it contained instructions as to policy and administration we retained the policy order and treated it really as part of the regulations under the act, and in addition enacted other regulations under the act. When the new legislation is passed we propose to consolidate all of the things in the policy order that we were using as regulations into new regulations under the amended act and retain the existing regulations under the act. So, the paragraph mentioned by Mr. Barnett is a concept that we have been using, and I think it can be included in the new regulations.

Mr. NICHOLSON: I did not have the benefit of hearing the Deputy Minister's comments, but I can assure you that when the briefs were received and following two extended discussions with Mr. Stevens and the others who came in to see me, I went into this matter at some length with the law officers of the department. They felt that this act having stood the test of time and that the provision in what will become of section 6(a) is certainly wide enough. The regulation section permits the Governor in Council to make such regulations that are necessary to take care of everything in the field of fair employment practices. You could not have any wider language than that. I assured Mr. Stevens and his group that this would be taken into consideration when the regulations were drafted, and that rather than change an act which has stood the test of 35 years it was preferable to do it the other way. The law officers—there are three of them here—went along with this and had this in mind when the act was drafted.

Mr. KNOWLES: You have no problem in re-enacting all of the policy regulations that you have had during the past half century.

Mr. NICHOLSON: No, and most of these have gone back to the turn of the century.

Mr. BARNETT: Mr. Chairman, I am intrigued by the information we have received about this fair wages policy regulation ante dating the Act. I do not imagine many of us were aware of this. This may be slightly off the track but it might be interesting to be informed under what authority the government initially enacted this Policy.

Mr. NICHOLSON: It was a very ingenious Deputy Minister of Labour.

At the time there was an order in council. The government was letting contracts for the building of post offices, docks and wharves right across the country. They felt they should have a policy to say what wages should be paid. It came into force just as a matter of government policy. Anybody letting a

contract can put terms in it. These were put in as guide lines in the days when Mackenzie King was Deputy Minister.

Mr. BARNETT: Would this be done under the powers of the Financial Administration Act, I wonder.

Mr. NICHOLSON: No. I would think it is the right of any person who is letting a contract to put in reasonable conditions that are not illegal.

Mr. HAYTHORNE: In other words, you can stipulate what you require when you are having work done for you, and this is the basis, I am sure.

Mr. NICHOLSON: When you issue the specifications under a contract these are really part of general specifications to apply to government construction contracts. That is the information that I get out of it.

Mr. JOHNSTON: May I add a word. It started as a resolution of the House of Commons in 1900, then later became an order in council in 1907, and then it was amended and expanded over the years.

Mr. KNOWLES: Who brought in that Resolution?

Mr. HAYTHORNE: Sir William Unlock who was the Postmaster General and also the first Minister of Labour.

Mr. JOHNSTON: In the year 1935, although the policy order has been considerably expanded, nevertheless the Trades and Labour Congress made representations that there should be a special act to deal with construction. The policy order deals with both construction and the manufacture of equipment and supplies. So, in 1935 the Fair Wages and Hours of Labour Act was passed, and the policy order is consistent with it.

● (11.30 a.m.)

Mr. BARNETT: I would like to make a further comment at this point, Mr. Chairman. I think this information is both interesting and relevant. Certainly I think that one of the considerations any parliamentary committee should keep in mind when dealing with legislation and the question of what can be left to government policy by way of regulation is the fact that governments do change from time to time and, therefore, the policy and the regulations might change from time to time.

Mr. MACKASEY: Mr. Barnett, you will agree in this case that even though government changed periodically from 1900 no one bothered to change or wanted to change it. I think this is proof we should leave it alone for the future.

Mr. BARNETT: Well, this is why I say I think this background of history is interesting, that no government since 1900 has apparently attempted to move in a backward direction in respect of fair wages and hours of labour.

Mr. NICHOLSON: I think we are definitely moving in the right direction, a constructive direction with a 40 hour a week at a minimum of \$1.25.

(Translation)

Mr. ÉMARD: Mr. Chairman, I believe that it is a very important item which is not covered in this act; it is the right of the government to legislate on fringe benefits paid by the various contractors. You know that this can involve

inequalities, this can create, for example, in the case of tenders inequalities due to the fact that some contractors under contract or under collective bargaining, have to pay fringe benefits which have a very high value. Some cases of 50¢ were mentioned last week by some witnesses who presented their evidence. It was also stated that some contractors, paying lowest basic salaries, pay no fringe benefits at all. I do not see in the act here any clause allowing the government to move in and oblige people to pay minimum fringe benefits.

(English)

Mr. HAYTHORNE: I have just a very short comment. I made three main points at the end of the last session, that had all been taken into serious consideration by the Department and government in reaching our conclusion regarding moving into this field of fringe benefits. First, was the very difficult administrative problem, Mr. Émard, which would arise. The second was that we felt it very desirable to keep this matter so far as possible in the hands of the authority, which in this case is the provincial government, which has the jurisdiction for the industry as a whole. As I said, if you start moving into the area of fringe benefits it is very difficult to know where to start and where to stop. In our discussions with the provinces, as Mr. Nicholson said at the opening session, we came to the mutual conclusion that it was to be preferred that we in our act stay with the two basic points of our fair wage legislation, the cash wage and the hours. We put into the contract that the contractor must abide by whatever regulations or legislation applies to this industry under the provincial jurisdiction, wherever he may happen to be working. Thirdly, I pointed out that we were still quite concerned about the position of the small contractor who might not be in a position in, all cases at least, to cope with the same type of fringe benefits that are being provided by larger contractors, and yet the small contractors might be in a position, depending on the type of work that he was bidding on, to perform quite satisfactory services and meet the requirements at a lower cost for the community as a whole, and have his position protected. In other words, if we were to introduce a requirement for him to pay fringe benefits it would be introducing an additional factor which may not be present or, in fact, is not present in most cases now. So, generally, in conclusion, we thought that it is preferable to leave the item of fringe benefits either, as I said, to the arrangements made through legislation or other provisions under provincial jurisdiction on the one hand or to the agreements that are reached through collective bargaining by the two parties, on the other hand.

Mr. NICHOLSON: I would just like to supplement that remark, by saying you will recall my mentioning that 97 per cent of the construction work comes within provincial jurisdiction. It is 3 per cent in the federal field. That is why we have had discussions with all of the provinces.

(Translation)

Mr. ÉMARD: However, Mr. Minister, I know you want to protect these small contractors, but we also should think about the workers, because most of them, most small contractors have non union labour and if we do not make sure we are giving a basic minimum the employees will be working under less satisfactory conditions than those they would enjoy in construction at large or in

industry. We have nothing at all at the present time to protect these people who are not organized. This is what I would like to see. Could we not, in the bill, have something to protect unorganized labour?

(English)

Mr. HAYTHORNE: There are two points. First we do have, of course, in the act the basic protection that is required for such workers. This is why we are required to develop fair and reasonable wages, and why the government itself feels it is desirable to keep the basic provisions for hours consistent with the provisions of the Canada Labour (Standards) Code. Now, with respect to the other items which you speak of, the fringe benefits, the provinces provide, and will be providing much more, I am sure, in the future, the kind of protection which may be required for the types of workers in the industry of which you speak.

Mr. KNOWLES: I have one or two questions that I would like to ask. First, may I say that with respect to what this bill does, I am satisfied. I take it, it has stood up to the inquiry and examination that was given it. As I say, so often my only regret is that it has taken so long to get this on the statute books. However, let me ask one or two questions.

The bill specifically deals, and the notes so say, with bringing this act into line with the Canada Labour Standards Code with respect to the hours of work per week and the minimum wage. Where do we stand with respect to the other two items in the Canada Labour Standards Code, namely, general holidays and annual holidays. Are they already covered in some way for people who work on this kind of job.

Mr. HAYTHORNE: These are handled, as I explained the first day, Mr. Knowles, under provincial jurisdiction, and we felt that it was better to leave these items, along with all the others that we have been talking about, to be handled by the authority which is mainly responsible for this industry. We should stay with our two basic subjects that have been dealt with all along. If we start to move into these other who areas, vacations with pay or statutory holidays, then it might be said, "Well, why do you not move into a number of others, such as safety, etc." As Mr. Nicholson has said, and as I have said, in our discussions with the provinces, we felt that there are satisfactory arrangements now in most of the provinces for taking care of these other items, including statutory holidays and a vacation.

Mr. KNOWLES: You say, Dr. Haythorne, that satisfactory arrangements obtain in most provinces. Now, the inference in that is that there maybe one or two cases where such conditions do not obtain. Did we not have the assurance of the previous Minister of Labour that fair wages and hours of the Labour Act would be amended so that people who do work under its provisions would have all of the benefits set out in the Canada Labour Standards Code.

Mr. HAYTHORNE: Minimum wage particularly, Mr. Nicholson, you may recall, and hours.

Mr. NICHOLSON: Well, I have a recollection, but I have not read Hansard on the subject for at least two months.

Mr. KNOWLES: Well, if you do not hear from me in the House it means that I have looked up and found this is correct; otherwise, you will hear from me. I

thought it was a commitment that would be a complete assimilation of one to the other.

Mr. NICHOLSON: As I stated at the first session of this Committee I, personally, and as the Minister, would have no objection to this. I say that in our discussions that we have had, and—I participated in them with five of the provinces—there was a general discussion which preceded that with all 10 provinces. Some of the provinces were not anxious to have us go into too much detail, but I said we have got to have a minimum hourly rate and a 40 hour week. We did not discuss in any detail the question of the general holidays.

Mr. KNOWLES: I would like to take a case in point now and I would ask Mr. Johnston to come into this, because it relates to a case down in Newfoundland; the correspondence about it was handled by Mr. Johnston and it concerned some work on some contracts let by the federal government. Mr. Thomas was the writer of the correspondence to you, Mr. Johnstone, and your reply was certainly in line with the law, that up to this point the fair wages now in the labour act did not conform to the Canada Labour Standards Code. Now, I take it with this legislation, that kind of worker will be protected so far as minimum wage, hours of work and overtime are concerned, but if I hear from these workers next month that they are not protected in terms of general holidays or statutory holidays, are we not still in trouble?

Mr. JOHNSTON: That point has been covered really, Mr. Knowles. We have authority under the Fair Wages and Hours of Labour Act to deal with only those items cited in the Act: wages, hours, classifications and overtime, and the policy of not expanding into the field of statutory holidays and vacations with pay already has been covered by Mr. Nicholson and Mr. Haythorne in their remarks.

Mr. NICHOLSON: Might I just give you a reference that might help you, Mr. Knowles. Will you look at Hansard of February 18, 1965, page 11,501, Mr. MacEachen speaking:

"I undertook on the part of the government in introducing this legislation to say that when we establish these standards in this bill, we would make them apply to all employees of the government service. That is a very big step. I said that we would amend the Fair Wages and Hours of Labour Act to apply the wage and hour standards to construction contracts and to designated categories of service contracts."

Mr. KNOWLES: In other words, the commitment to make it cover all four applied to government employees.

Mr. NICHOLSON: That is right.

Mr. KNOWLES: But in respect of this group only the two.

Mr. NICHOLSON: The reason for that is that they have different holidays in different provinces, especially in the Province of Quebec where they have religious holidays, and with only 3 per cent of them government contracts—some contractors have small forces and other have large forces—it was felt it would be better to leave it in that particular field.

Mr. GRAY: Mr. Chairman, what the Minister just said touched on what I wanted to suggest to Mr. Knowles, that is that the application of standards of

wages and hours, including over-time, can be applied to very small units of time, a day or part of a day, whereas I could see very practical problems of administration regarding application of holiday standards on contracts which may last a week, a month or six weeks, and may not touch on any holiday period. In other words we may be trying to apply standards of holidays for periods when the contractor is not even working on any project for the federal government. I might say in passing though that I personally am not adverse to seeing the Federal government extend its efforts with regards to standards farther than it has up until now, although I think this is a major step forward.

● (11.45 a.m.)

The CHAIRMAN: Does 1 carry?

Mr. KNOWLES: Could we put on record that if we come to this bridge we will have to do something about it.

Mr. McCLEAVE: What have in recent years been the main complaints against the present act and by whom?

Mr. JOHNSTON: Most of the complaints that we receive are complaints that the wage paid does not come top to the standard of the wage required in the schedule. Another complaint is that the men have been working in excess of 8 hours and 44 hours a week without a permit and on the basis of straight time rates of pay. A third complaint is the misclassification of employees; a man may be classed on the payroll as a labourer and he might be doing carpenter work. Those are three main complaints. Many of those complaints arise because the contractor fails to post the wage schedule on the project, as he is required to do, and sometimes the employee himself does not know that he is underpaid until we make an inspection.

Mr. McCLEAVE: Do these complaints arise on work performed where there is collective bargaining or are they on small contracts or jobs involving small contracts?

Mr. JOHNSTON: Well, it arises in all kinds of contracts. If the contractor has a collective agreement with a union that embraces all the employees on the contract project, the bargaining that takes place is usually for conditions that might be a little better than are contained in the schedule. Usually you bargain for something better than the prevailing standards; but, in most contracts the tradesmen themselves might be covered by their own craft agreement and in that case we do not have much trouble in seeing that these labour conditions are observed with respect to them.

Mr. McCLEAVE: Would you classify the number of complaints substantial or very small?

Mr. JOHNSTON: In relation to the total business we do they are small. The government of Canada let 4,805 construction contracts in the last fiscal year. We investigate every complaint. We make inspections on our own initiative to the extent that we can do so with our manpower. In the last fiscal year we collected wage arrears of about \$80,000 for distribution to about 1800 employees from about 100 contractors. Some years that has been higher. It has gone as high as \$200,000 and it has been lower. That is going on all the time.

Mr. McCLEAVE: About 100 complaints out of 4,805 contracts.

Mr. JOHNSTON: Well, I said we collected that money from 100 contractors; we may have more than 100 complaints.

Mr. HAYTHORNE: Mr. Chairman, we have also been criticized—and I suppose it is really a form of complaint—for not having a more extensive staff for field work in this field. That I think Mr. Johnston is a legitimate complaint. It is also a fact that there have been complaints that employers who have been found negligent in not paying up to the level have tended to repeat this action, and this is one of the reasons why in our present bill we have included the provision for penalties. I think this may help to meet that complaint.

Mr. McCLEAVE: Were the federal departments of Public Works, Transport, National Defence and Northern Affairs consulted regarding these present amendments?

Mr. NICHOLSON: Public Works, Transport; I can not speak for Northern Affairs.

Mr. JOHNSTON: No, I do not recall consultations with Northern Affairs.

Mr. NICHOLSON: These have been all been cleared with Treasury Board, Transport and Public Works.

Mr. GRAY: This bill was also presented to Cabinet, I presume.

Mr. NICHOLSON: Yes.

Mr. JOHNSTON: The declaration, of course, was made in the House of Commons by Mr. MacEachen of what the Government proposed to do.

Mr. McCLEAVE: The Departments were consulted and the Treasury Board have given the bill approval. Am I correct in that assumption? Now, were the provincial Departments of Highways consulted? You mentioned consultations with the provinces.

Mr. NICHOLSON: I must say we felt that we covered it fully; we took it up with the Minister of Labour in each of the provinces, and we assumed if there were any questions he in turn would clear it up right there.

Mr. McCLEAVE: The other day, Mr. Minister, Mr. Ladyman of the Canadian Labour Congress, estimated that the take home pay of highway construction workers could be reduced by one third if they were placed in the 40 hour work week.

Mr. NICHOLSON: I am not an expert. I would have to refer that to the Deputy Minister or one of my other officials. But, I would question that very seriously. I will let the experts deal with that.

Mr. HAYTHORNE: This assumes Mr. McCleave that there would be a reduction in the hours. What happens in most of these cases is that there is an accommodation reached between the union or the workers, on the one side, and the employer on the other, as to what is a fair and reasonable number of overtime hours. The overtime hours of course, being paid at time and one-half, go a considerable distance in maintaining take home pay. It has to be recognized that on the one side you have the problem of maintaining take home pay as against the added costs for the employer on the other; but, in our experience in working with industries under the Code—and I am sure this will happen here—there will be an accommodation reached so that there will not be in many instances anything like this extent of a drop in a take home pay.

Mr. McCLEAVE: Would this, Dr. Haythorne, be done under Section 6, the regulations that can be passed under the current act.

Mr. HAYTHORNE: This would be largely a matter for the parties themselves to work out, I would suggest.

Mr. McCLEAVE: But would they not have to make the request of your Department to be given the blessing to come outside the operations of the act.

Mr. HAYTHORNE: Well, they have freedom in working an extra 8 hours. If an employer wishes to work his men more than 48 hours they have to obtain a permit, and in obtaining a permit it would be assumed that they would have an arrangement with their men to pay them overtime after 40 hours. Mr. Johnston might speak to this because it is my understanding, Mr. Johnson that we have never had any serious problems in collecting or requiring employers, under our present provision, to pay overtime after 44 hours.

Mr. JOHNSTON: If I may speak to that, first of all, the Government of Canada does very little road work. Road work in our national parks and airport runways are regarded as roadwork. But in the national parks and in the Northwest Territories there is always a demand, always an urgency to get work done in the shortest possible time, especially with an asphalt job; and in the Northwest Territories we recognize the special circumstances there and when they ask for a permit to work longer hours we usually give it. Sometimes we give it with the schedule so that it is included in the specifications put out for tender and the contractors who are bidding know that they have a permit already. But that permit requires time and a half after eight and 44 and most of the permits are for ten hours a day and 60 hours a week maximum. Now, with time and a half after eight and 44 it means that the workmen working the full 60 hours get paid for 68 hours and the contractors really use those permits and pay that 68 hours work per week. They do it in the national parks, in Prince Albert, Jasper, Banff and Kootenay, all the other parks when we give permits. We do not withhold those permits if they establish a case of urgency.

Mr. McCLEAVE: Mr. Chairman, I thought Mr. Ladyman was an excellent witness and a very cautious one in the type of evidence he gave. It did concern me, and I am sure it concerned other members of the Committee, terribly that we might, by endorsing the legislation, be hitting at a particular section of industry. After all, the highway construction work is very dependent on weather and I suppose if the people in that industry are prepared to recognize this as a way of life they have to work longer periods at certain times of the year when the weather conditions are favourable. I hope the minister or the department can give the assurance that all due regard will be paid to this factor of weather and the point that was made by Mr. Ladyman.

Mr. NICHOLSON: That is right in the bill. I do not think Mr. Ladyman's attention has been drawn to it. The bill was drawn with that in mind. Would you look at clause 2(b)(ii) of the bill, at the top of page 2 "by the minister in cases of exceptional circumstances including, without limiting the generality of the foregoing, the circumstances that the work concerned has to be completed or carried on in a short working season or in a remote area", that was put in for that very reason.

The CHAIRMAN: Do you have any more questions, Mr. McCleave?

Mr. McCLEAVE: Was the promise that your predecessor made to, I think, Mr. Knowles—I was not here at the time—made before the views of union leaders and construction leaders were given, I think, to the minister. If so, I wonder if under those circumstances he still considers himself bound by that promise which was spoken of, I suggest, without all due regard to the views of the construction industry.

Mr. NICHOLSON: Yes, because the minister did have representations long before the legislation was introduced. It is true that the brief dated March 6, 1965 was attached to the letter of May 28, 1965. That letter was written later. The representations that were contained in that brief had been made to Mr. MacEachen and the department before they were reduced to writing. So far as I can remember Mr. MacEachen in answer to a question by Mr. Knowles gave the undertaking with due regard to this situation and as I said we made doubly sure or I did that special circumstances at this time would be covered and that accounts for the wording of the section I read a few moments ago.

Mr. HAYTHORNE: I was present when this brief was first presented to Mr. MacEachen in his office last spring and it is true, Mr. Nicholson, that these groups on each side had had extensive discussion over quite some time. We had not had any formal discussions with them up until that time but Mr. MacEachen made it quite clear at the meeting that he could not depart from what he had promised in the House of Commons.

Mr. McCLEAVE: Would the fair wage schedule be able to recognize special project agreements and conditions negotiated by organizations representing interested labour and management, for example the Welland canal twinning?

Mr. HAYTHORNE: In the past we have recognized in determining the fair wages in any area the collective bargaining rates. We do this all the time. Mr. Johnston I would like you to answer this.

Mr. JOHNSTON: The standard of wages spelled out in the act is the current rate being paid in the district for competent workmen and that is the standard that we use in preparing schedules of classes and rates to put in the contract. In many areas of Canada the key rates are the recognized collective agreement rates. As a matter of fact in British Columbia which is more highly organized I think in the respect than the other provinces would say fully one half or more of the rates we carry in our master schedule, or work sheets are collective agreement rates.

Mr. McCLEAVE: I have a few more questions the first one to the minister. In Nova Scotia Mr. Nicholson the legislature and the government have adopted the practice of making changes in labour laws only after a direct request by both labour and management. This seems to be the approach that is being asked here by the construction people on the management and union side. I was wondering why this philosophy could not be adopted here.

Mr. NICHOLSON: Because Parliament in its wisdom has decided that unless there are unusual circumstances the maximum work week should be 40 hours in Canada and that the minimum pay should be \$1.25. Now we know that was not easily acceptable in all parts of Canada; it was not received with too much favour in the Atlantic provinces—at least in some parts but nevertheless

Parliament felt these were minimum standards. It is not as if the construction industry have not had an opportunity to make their views known—and they were known and they were recognized when the Labour Standards Code passed and in the course of that I feel certain that the former minister would have been flying in the face of the wishes of Parliament if he had not been prepared to extend these minimum benefits right across the country in all industry including the construction industry.

Mr. McCLEAVE: Mr. Nicholson members of Parliament did not have the advantage of the evidence that has been presented to this Committee about the special need of the construction industry or the special problems and needs of the construction industry?

Mr. NICHOLSON: That may be one reason why we have opened the door here. I was the one who took the responsibility of suggesting in the House that it be referred to this Committee, I know I am not a member of the Committee—you make your own recommendation—but speaking for the government it certainly is our feeling that these two minimums should apply to the construction industry the same as any other industry in Canada. These are minimum standards and I might say, in discussions I have had with some of the provincial ministers they said that the construction industry would be the last one to complain about them because they all pay more than \$1.25 an hour and they have been working in a framework where they have been paying overtime, over 44 and it will not be too difficult to adjust to the 40.

Mr. McCLEAVE: I suppose, Mr. Nicholson, the reason we do have this strong stand by the construction association and the association relating to the unions is that they are organized on both sides and their fear is that they will be discriminated against by non union firms and non union workers.

Mr. NICHOLSON: I question that very seriously but, on the other hand, there are dangers the other way. If you get unions and employers getting together to oppose legislation that Parliament, in its wisdom, has said, is to achieve minimum standards, then I would be inclined to be a little suspicious when they get together in that field.

Mr. McCLEAVE: Do you think there is a danger that these very strong standards, protecting workers in industry with fringe benefits and the like, will be eroded away by contractors who do not employ union labour.

Mr. MACKASEY: Mr. Nicholson, with Mr. McCleave's permission I think that I hit on the point with Mr. Stevens, who had to admit that it has the opposite effect. On of the problems that organized labour has in many areas of Canada is non union labour—contractors who will underbid for 60c an hour. Certain people exploited by contractors are working on projects for 60 cents to 90 cents an hour, whatever they can get non union labour for, on government contracts. Now, under the provisions of this law, regardless of whether labour is union or non union, they must be paid \$1.25 and they must be given overtime after 40 hours. So this works to the benefit of organized labour and I think the tendency will now be for contractors, because the difference will be so little, to go to organized labour whenever possible.

Mr. NICHOLSON: Another thing, Mr. McCleave, just replying to you, while this brief was signed by the Chairman of the Association of International

Representatives of the building trades, it has been widely advertised that this proposed legislation was coming before this Committee and I would have thought that the national labour organizations would have taken a viewpoint had they opposed it. You have not seen any representation from the CLC as a body, from the CNTU or from other organizations of that nature.

Mr. McCLEAVE: I do not know to what degree Mr. Ladyman spoke for the Canadian Labour Congress but he was certainly the top—

Mr. KNOWLES: I could comment on this. Mr. Ladyman is one of a good many vice-presidents of the Canadian Labour Congress but he is not one of the group at the top that specifically speaks for the Congress. He made it very clear and straightforwardly himself that while he is a vice-president he was speaking for the particular unions that he represents. There is no denying that he is one of quite a number of vice-presidents of the Canadian Labour Congress.

Mr. MACKASEY: In addition to what Mr. Knowles said, he represents the I.B.E.W. whose average rate on this type of thing is well over \$2.00 an hour; he was more concerned with the provision of overtime than he could possibly have been with the minimum standard of \$1.25. It is only of academic interest to a man whose crafts are in the \$3.00 and \$3.50 and in some cases \$4.00 an hour bracket. In other words I do not think Mr. Ladyman here represented the CLC; he represented Mr. Ladyman.

Mr. KNOWLES: I think he went further than the I.B.E.W. I think he did have the right within the union structure to be speaking for the building trades unions, but he was not speaking—and he did not claim to be speaking—for the Canadian Labour Congress.

Mr. McCLEAVE: He is member of a trade union. Am I correct in that assumption?

Mr. HAYTHORNE: He mentioned that he spoke for three unions.

Mr. KNOWLES: If the CLC generally was critical of this, because I know the CLC, I do not think they would have hesitated to be here and say so.

Mr. McCLEAVE: My final question is to Dr. Haythorne. At the end of the last day's hearing, Dr. Haythorne, you were dealing with the summary of recommendations in this joint submission of May, 1965 and I take it that of some eight requests here none of them are being met. Is this correct?

Mr. HAYTHORNE: No, that is not quite correct, Mr. McCleave. I did not go into the other six; I dealt with two. I could briefly comment on the others if you would like me to.

Mr. McCLEAVE: If you could I think it would be helpful to the Committee.

Mr. HAYTHORNE: There was a request, you will remember, one of the eight, with respect to overtime permit procedures. In considering this request we indicated that we were not prepared to eliminate the overtime permit procedure but we were prepared to relax it, and the amendment which the Committee has before it proposes that a six day, 48 hour week, may be worked without a permit so long as the overtime rate is paid for the sixth day. Further, some of the exceptional circumstances under which the minister may issue permits, as Mr. Nicholson has already pointed out this morning, are spelled out in the new section 2(1)(ii) and this you will remember refers to the circumstance that

work concerned has to be completed or carried on in a short working season, in a remote area or where the public interest requires an expeditious completion of the work. We have actually, Mr. McCleave, introduced a little more flexibility in the permit provisions than exist now because at the moment a permit is required after 44 hours. We said for those eight hours between 40 and 48 no permit is required but it is afterwards, and we are retaining it and, in fact, making it more explicit in the bill what the circumstances for the exceptional circumstances are.

Now, you will recall it was also recommended that there be a provision of statutory limitations of 30 days on the claims. Our experience has shown that a statutory limitation of 30 days on claims would not be fair to the workman. To agree to incorporate the 30 day limit from the day of alleged violation would mean that we would be unable to adjust most of the wage deficiencies and would seriously impair, we think, the effective enforcement of fair wages on these contracts. There is no time limit presently fixed for wage claims but the practice has been to continue to deal with wage claims so long as there is money held back from the contractor available to meet such claims. On the question of an appropriate limitation on claims, we think 30 days is too short, but a more reasonable period is one that could be dealt with in the regulations, and we are certainly prepared to pursue this further.

The industry's brief suggested that there is a problem with regard to retroactivity. It is our view that any problems there have been in regard to this matter have been resolved. When a wage schedule is revised to reflect the higher rate currently being paid in the area by the construction industry, it is our practice to send the revised schedule to the contracting agency with the request that the contractor be told to apply the revised rates on the next immediate payroll. As a general practice the new rate is implemented by the contractor at the start of the pay week immediately following the receipt of the revised schedule by that contractor. It would seem that our present practice is in line with the request in the brief but we are prepared to consider further whether we might develop some regulations in this regard.

Now, with respect to the proposal that section 2(a) of the act be amended by replacing "character or class of work" by "type of construction work" and also the addition of definitions to cover the four main types of construction work, members of the Committee will recall Mr. Barnett's questions with respect to this and the discussion at an earlier session. I recall that this was considered at some length last Thursday. The words "character or class of work" permits recognition of any observable distinction, we feel, in the class of work in any district. We are not able to see that any purpose would be served by the change suggested. There is, however, authority to make regulations providing for classifications of employment or work, and this is one of the matters that we would be prepared to consult further certainly with both sides of the industry.

The associations have urged increased enforcements of the act pointing out that only about 20 per cent of all contracts are inspected. We appreciate the desire of both sides of the industry that contract conditions should be well enforced. It should not be necessary, in our view, to maintain an inspection staff

of a size to inspect every contract. You will recall that there are about 2,000 contracts going on at any one time across Canada. Labour conditions in the contract are available when specifications are issued and the general contractor, we feel, should assume the responsibility of seeing that these are implemented. One difficulty in the past has been that a contractor, as I have already mentioned this morning, had nothing to lose by violating the labour conditions. There has been an effective means of collecting money on behalf of the employee but there was not with regard to the contractor. It is for this reason that we have inserted a clause in the amendment requiring a contractor who is found to be in default to pay liquidated damages, and it was indicated in the hearings last week the industry has made no complaints to us with respect to this provision.

● (12.15 p.m.)

I think this, Mr. McCleave, covers the points. I would just say, in summary, that we have inserted a clause in the amendment requiring a contractor who is period under which the claims by workers under the legislation should be made and also the question of retroactivity when introducing new wage rates. On the two main points that we discussed last time, I think our position is clear.

Mr. NICHOLSON: Mr. Chairman, might I supplement what Mr. Haythorne has said. When it was suggested to me by members of three of the different parties in the House that this should be referred to this Committee it was to afford an opportunity to get the type of information that Mr. McCleave is asking for now, because we have considered every point in this brief.

Mr. MUIR (*Cape Breton North and Victoria*): I know a case where a contractor was carrying out a contract for a governmental department, the hourly rates were stipulated and for a period of two to three months the contractor got away with paying the worker 20 to 30 cents an hour less than he was supposed to have paid; then at a later date the worker dared to contact his Member of Parliament and it was brought to the attention of the department concerned. The point I am trying to make is that in this instance it was quickly remedied and there was good satisfaction from the department concerned. Following this should the contractor then feel that the services of the worker or workers are no longer required, what protection does the worker or workers have under the regulations with the Department of Labour? What redress does he have in event that he is released from his employment? I have found through experience that there are contractors in the country who are quite willing to get workers to work for them at the lowest possible wage. Can someone tell me what protection there is for the worker?

Mr. HAYTHORNE: The regulations, I do not think, provide any specific protection in this regard. Mr. Johnstone might like to add to what I have said.

Mr. JOHNSTON: The fair wages legislation has never attempted to regulate employee-employer relationships, including separation. If the employee makes a complaint and wishes his name withheld we make a routine inspection to cover all employees and make all necessary adjustments without disclosing the name of the complainant. Many times a contractor demands to be told who complained about him, but we do not give that information if there is any risk to

the employee or if he specifically asks his name be withheld. The legislation does not go as far as protecting against separation.

Mr. HAYTHORNE: Mr. Chairman, there are two minor additions here. Of course, if there is a collective agreement there are, of course, grievance procedures here. This is one advantage, as you know, Mr. Muir, of the union; it gives protection.

Mr. MUIR: I realize that.

Mr. HAYTHORNE: Secondly in our experience in a good many cases the complaint might be made by the worker after he has left the employment.

Mr. BARNETT: Mr. Chairman, arising out of the information we have been getting in answer to Mr. McCleave's questions, there is one aspect of this matter that has been dealt with in the brief concerning retroactivity and the amending of fair wage schedules, that I am still not quite clear on; that is, what happens where a contractor has taken a contract to do a certain job of work for the federal government at a certain price and there is an upward revision of the fair wage schedule during the course of that contract being carried out. Is there any provision for compensating in accordance with the upward revision in the total remuneration he receives or just how does this work in relation to a contract that has actually begun under a certain set of fair wage schedules? And does it happen that sometimes there is a revision while he is in process of performing that work which would materially affect his position in respect of the original bid.

Mr. JOHNSTON: Most of the departments and agencies—and we prepare these schedules for all government departments and for many government agencies—have somewhere in their specifications the requirement that the contractor's firm bid is a firm bid for the duration of the job, and if he encounters any increases in wage rates or other costs, that is his responsibility. That is not covered in our fair wages schedule but the schedule is based upon the current rates being paid in the district at the time of the letting of the contract. The minister has authority to issue revised schedules from time to time, and if the level of rates go up most contractors will observe the higher level without a revised schedule. But if it is necessary to issue a schedule revision it is sent to the contracting department which sends it to the contractor to apply it on the next immediate payroll. The contractor may say he needs an addition to the contract price to take care of it. That is a matter that has to be settled between the contractor and the department or agency that lets the contract; most departments hold the line at the bid price and say that is the risk the contractor ran when he bid on the job. And, during the currency of the contract which might run for three years it is up to him to anticipate any increase he might encounter in wage costs and to take that into consideration in preparing his bid. But most government contracts are for much shorter periods. A government contract will last from a few days to a few months. Not many of them run over a year. The average life might be six or seven months. So, they are able to anticipate more clearly wage costs that might rise above the level at the time of bidding. But it is a responsibility to be settled between the contractor and the department or agency that let the contract. It is not the responsibility of the Department of Labour.

Mr. BARNETT: Could I ask one further question just to clarify this point in my mind. If a revision of the fair wages schedule takes place, would this be as a

result of new rates which have been negotiated in collective agreements between employers and employees or unions in the area in all cases or would there be cases where the department might revise the schedules under other circumstances than a general rise in relation to union wage schedules? I think this might be taken as an example somewhat out of the ordinary.

Mr. JOHNSTON: Sometimes part of the construction industry negotiates with its unions for higher rates of pay; and sometimes by the very contractor who has the contract. In other cases we might receive complaints that our rates are out of line and make a survey in an area that is relatively unorganized and come up with wage information that indicates that our rates and our schedules are falling behind. In that case we would issue a revised schedule of rates.

Mr. REID: I am just concerned about the applicability of this act. Does it extend to those areas where, say, the government contracts for a service.

Mr. HAYTHORNE: No. It covers the construction industry only.

Mr. REID: Do you have any other act that would apply to such area?

Mr. HAYTHORNE: The policy order which Mr. Johnston mentioned earlier, is applied to some of them.

Mr. RICARD: To supplement Mr. Muir's question, Mr. Johnston, you said that there was no provision in the law to enforce this. Do you not think we should put some teeth in it?

Mr. HAYTHORNE: At the present time all we can do is collect the money and pay it to the employee. The contractor who has underpaid his men and who is not apprehended, is that much farther ahead.

Mr. McCLEAVE: In relation to the future procedure involved in this bill, would it immediately come before the House of Commons or would it have to wait until the transcript of evidence is available?

Mr. MACKASEY: Is there a rush or a deadline we have to meet.

Mr. NICHOLSON: We hope to have this legislation in force in 1966.

Mr. McCLEAVE: Mr. Chairman, how soon do you anticipate that the printed report will be available?

The CHAIRMAN: I am afraid I cannot answer you, Mr. McCleave. I am told by the clerk that maybe in a week and a half or two weeks it will be available. We cannot give you any set time, Mr. McCleave.

Mr. McCLEAVE: Could I ask the minister if he would be agreeable to bring the bill up, say, some time in the middle of June by which time we could anticipate the evidence being ready.

Mr. NICHOLSON: I am really in the hands of the Committee. I would have liked to have seen the legislation passed six months ago. I do not like to give a commitment of that kind.

Mr. MACKASEY: Excuse me, Mr. Nicholson, but there is a question also of the House leaders trying to get legislation through. This is badly overdue and every day we delay we are denying somebody in some part of Canada overtime after 40 hours, and they will still be getting it only after 44 hours.

Mr. NICHOLSON: What disturbs me is the fact that people are not getting what, in principle, Parliament and the government feel they should be getting. Even two weeks delay is wrong, in my opinion.

Mr. GRAY: Also, Mr. Chairman, I can understand your concern, sir but I think we should remember as a committee of Parliament we are creatures of the House of Commons. I do not think we are in a position to tell the House of Commons in what order it should deal with the business which may come before it, after or before study by this Committee.

Mr. KNOWLES: The minister has to get this bill out of the way so he can meet the commitment he gave me yesterday to get a safety code in.

Clause 1 agreed to.

Mr. NICHOLSON: I think you will be glad to know that the safety code is now before the Senate.

Clauses 2 and 3 agreed to.

Mr. BARNETT: Mr. Chairman, there is just one minor question on clause 4. I made a note at the time; it has to do with the lettering of the subsection. I have almost forgotten the point now but it seemed to me that as the proposal was to amend the original act we are going to be left with a gap in the alphabetical sequence. I thought perhaps while we were amending this we should renumber the following subsections so that it would continue to read, "(i), (j), (k)".

Mr. NICHOLSON: We are only putting in a reworded subsection (b) and we are adding a (j).

Mr. KNOWLES: You are taking out (i) and (j) and putting in an (i). There will be no (j).

Mr. NICHOLSON: There will be a (j) because there is an "and" after (i); (j) will follow and it is the one under which penalties will be imposed.

Mr. BARNETT: (i) and (j).

Miss E. LORENTSON (*Director of Legislation Branch*): Mr. Chairman, I discussed this with the drafting officers of the Department of Justice. We were aware that we were leaving "j" empty, as it were, and they suggested that for purposes of simplicity it was better to leave this for the statute revision committee to clear up when the statutes are revised rather than trouble Parliament with it at this time.

Mr. BARNETT: I was not seriously worried about it but I thought I should mention it.

Clauses 4 to 6, inclusive, agreed to.

Title agreed to.

The CHAIRMAN: Shall the bill carry?

Some hon. MEMBERS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Well, gentlemen, there being no other business before this Committee we will adjourn. Before doing so I want to thank the minister and the officers of the department for their valuable contribution; also my thanks on behalf of the Committee to the various representatives of the Canadian Construction Association, the building and construction trades. I want to thank you, gentlemen, for your attendance at this Committee and, on your behalf, to thank the clerk and all the employees who helped us.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

THURSDAY, NOVEMBER 24, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Mr. George E. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Énard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,

Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape Breton*
South),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,

Mr. Muir (*Cape Breton*
North and Victoria),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

ORDERS OF REFERENCE

FRIDAY, October 21, 1966.

Ordered,—That Bill S-35, An Act respecting the prevention of employment injury in federal works, undertakings and businesses, be referred to the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

REPORT TO THE HOUSE

THURSDAY, May 26, 1966.

The Standing Committee on Labour and Employment has the honour to present its

FIRST REPORT

Your Committee has considered Bill C-2, an Act to amend the Fair Wages and Hours of Labour Act, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (issues Nos. 1 and 2), is appended.

Respectfully submitted,

GEORGES LACHANCE,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, November 24, 1966.

(6)

The Standing Committee on Labour and Employment met this day at 9.50 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, Ricard, (14).

In attendance: From the Department of Labour: Mr. George E. Haythorne, Deputy Minister; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. W. B. Davis, Departmental Solicitor; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

The Chairman read, in French and English, the Orders of Reference, after which Bill S-35 was declared to be officially before the Committee.

Mr. Chairman then read the Second Report of the Subcommittee on Agenda and Procedure as follows:

THURSDAY, November 24, 1966.

Your Subcommittee recommends:

1. That the Honourable J. R. Nicholson, Minister of Labour, with such officials from his department as he deems necessary, be invited to appear this day to make an introductory statement on Bill S-35.

2. That witnesses submitting briefs, be requested to supply the Clerk with 45 copies in English and 20 copies in French, at least two days prior to their date of appearance."

On motion of Mr. Clermont, seconded by Mr. McKinley,

Agreed,—That the Second Report of the Subcommittee on Agenda and Procedure be adopted as read.

Mr. Chairman gave the names of the various organizations contacted and listed those who had replied that they wished to make a submission.

Agreed,—That the C.L.C. and the C.N.T.U. appear before the Committee December 6, 1966.

Mr. Chairman inquired if the Committee wished to do anything about the size of the quorum and the hours the Committee might sit, and after discussion it was *agreed* that no attempt be made to change either at this time.

Mr. Chairman explained that because of a misunderstanding the Honourable Mr. Nicholson, Minister of Labour could not be present. The Chairman, after introducing the officials, called on Mr. Haythorne to make a statement.

Mr. Clermont raised a question of privilege during Mr. Haythorne's statement that there was no English to French interpretation. After some discussion and an explanation by the interpreter, the Chairman asked if the Committee wished to instruct the Clerk to write a letter of complaint to the officials concerned. After some minutes, an English to French interpreter arrived and it was *agreed* that no action be taken.

Mr. Haythorne concluded his statement and was questioned.

The Committee then stood the Preamble and clause I of Bill S-35. On clause 2, the Chairman asked Mr. Currie to give a clause by clause explanation of the Bill.

A set of Explanatory Notes, prepared by Mr. Currie as a memorandum "to himself" was tabled, and it was *agreed* that it be appended to the Minutes of Proceedings and Evidence of this day. (*See Appendix 6*)

Later it was *agreed* that Mr. Currie reappear on Tuesday, November 29, 1966, to conclude his testimony and that the Canadian Railway Labour Executives Association also appear at that time.

At 11 o'clock a.m. the questioning of the witnesses continuing, the Chairman adjourned the Committee to 9.30 o'clock a.m., Tuesday, November 29, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 24, 1966.

9.48 a.m.

The CHAIRMAN: Gentlemen, we now have a quorum. We are sitting today by authority of an order of the house which is as follows:

(see Order of Reference this issue)

Gentlemen, now that we have this bill before the Committee, with your permission I will read you the report of the subcommittee on agenda and procedure which held a meeting on Thursday, November 24, 1966. This is the second report of the subcommittee and it reads as follows.

(See Minutes of Proceedings)

May I have a motion for the adoption of this report.

Mr. CLERMONT: I so move.

Mr. MCKINLEY: I second the motion.

Motion agreed to.

The CHAIRMAN: May I introduce the new Clerk of this Committee, Mr. Michael Kirby, who replaced Mr. Tim Ray since the last sitting of this Committee. Gentlemen, I will give you a list of the associations that we have contacted.

We have sent letters to the Canadian Marine National Employees Association, the Canadian Merchant Service Guild; the S.I.U. in Montreal; the Canadian Brotherhood of Railway, Transport and General Workers; the Canadian Air Lines Flight Attendants Association in Vancouver; The Automotive Transport Association; The C.L.C.; the C.N.T.U.; The Canadian Trucking Association; The Canadian Railway Labour Executives Association; The Canadian Shipowners' Association; The Bell Telephone Company; Lakehead Terminal Elevators Association; North-West Line Elevators' Association; The Ontario Grain & Feed Dealers Association; The C.P.R. and C.N.R. Most of them have answered either verbally, or by letter that they did not wish to submit a brief. Some of them have said that since the C.L.C. will present a brief they will be satisfied with that. We have had an affirmative answer from the C.L.C. and they said they would be ready to present a brief on December 6. They had several commitments; at first they said that they would not be able to appear before this Committee until December 19. We discussed this with Mr. Morris, and since Mr. Morris wished to appear personally he said that if it is the wish of the Committee the C.L.C. will appear on December 6.

The C.N.T.U. have also said that they would appear before the Committee on December 6. The Canadian Railway Labour Executives Association have forwarded a brief. Mr. Gibbons who represents this association is with us today and if we have time, and if it is the wish of the Committee, he will present the brief today or at the next sitting of this Committee.

I am told by the Clerk of the Committee that the Canadian Trucking Association Inc. has also answered expressing an interest but as of today, they are not sure whether they will present a brief or not. As I have said, we have had an answer either verbally or by letter from each and every one of these associations.

Mr. KNOWLES: It adds up to three groups for sure and one possible.

The CHAIRMAN: Does the Committee wish to entertain a motion to sit on December 6 to hear the C.L.C. and perhaps the C.N.T.U?

Mr. CLERMONT: I so move.

Mr. FAULKNER: I second the motion.

Motion agreed to.

The CHAIRMAN: At this time do you think it would be proper to entertain a motion for reducing the quorum? It is up to the Committee to decide that; the quorum is still 13 and it has never been reduced.

Mr. MACKASEY: Mr. Chairman, we should not need too many meetings to get through this bill. It has already been through the Senate.

The CHAIRMAN: We will probably need three meetings.

Mr. MACKASEY: To avoid another long, lengthy debate in the house about quorums I think we should try to meet the 13. Perhaps if we could schedule our meetings at a more opportune time, when there are not six others, which is no reflection on you, we might have a better chance of getting a quorum.

Mr. KNOWLES: I think that is the counsel of wisdom.

The CHAIRMAN: Does the same thing apply to sitting while the house is sitting?

Mr. BARNETT: Mr. Chairman, as you recall, when this matter was being discussed in the steering committee, I expressed the view that if possible we should try to avoid that particularly in view of the number of other committees that are meeting. If we found ourselves in the position where witnesses had come from distant points in Canada to appear before the Committee we might perhaps then try to make an arrangement, if it were necessary, to complete their presentation, requesting the Committee to sit in the evening or at times when it is necessary. But otherwise I felt that it would be better for us not to request at this time to sit while the house is sitting.

The CHAIRMAN: I call Bill No. S-35. May I introduce to you Mr. George V. Haythorne, Deputy Minister, Department of Labour; Mr. Jean-Pierre Després, Assistant Deputy Minister, Department of Labour; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour and Mr. W. B. Davis, Departmental Solicitor, Department of Labour.

The Minister of Labour, the Hon. J. R. Nicholson had agreed to present a brief. Due to a misunderstanding—and a misunderstanding is very easy—I told him yesterday that the C.L.C. brief was to be presented on December 6, and he understood that the meeting this morning was postponed or would be postponed until December 6, so he made some other commitments. He asked Mr. Haythorne to be present today. I am told that if we need Mr. Nicholson for any explanation he could be called next week. The Minister will be available on November 29 if it is the Committee's wish.

Mr. GEORGE V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman, and members of the Committee, as the Chairman has said, Mr. Nicholson was unable to be here this morning. He asked me to express his regrets and to make a short statement on his behalf. You have already been introduced to the other officials who are with me here this morning. We will be very glad to assist the Committee in any way we can in the consideration of this bill. I am also pleased that Mr. Mackasey, the Parliamentary Secretary to the Minister of Labour, is able to be with us this morning, too.

Last year when the Canada Labour (Standards) Code Act was enacted the government indicated, as I am sure you will all recall, its intentions to put forward a companion measure designed to promote the safety and well-being of persons during the course of their employment in federal works, undertakings and businesses. The general purpose of the proposed legislation is to require all industries under federal jurisdiction to observe minimum occupational safety standards and to vest in the Department of Labour responsibility for the development of safety standards and for the regulation and inspection of work places as may be necessary for the safety and health of the employee.

There is, at the present time, no federal legislation of general application directed towards the prevention of employment accidents and the elimination of hazards in work places coming under federal jurisdiction. There are some industries under federal control, for example, the railways, shipping and air transport, in which occupational safety—the safety of the public, and in some instances, the safety of employees—is covered under statutes which apply broadly to these industries.

In the absence of federal controls, some provincial safety regulations have been applied. At least an attempt has been made to apply these on occasions to federal establishments with varying success and more than a little difficulty. Studies have disclosed that there are substantial groups of employees and in numerous work places in federal industries to which no government authorities are applying safety and health standards. This constitutes, in our view, a serious gap and a federal act, we feel, would clarify this far from satisfactory situation and would enable clearcut provision to be made for all situations.

A number of departments and agencies, notably the Department of Transport, the Department of National Health and Welfare and the National Energy Board, are administering several acts under which the operation of certain industries is controlled and regulated and safety aspects may be included. There is nothing in this bill, S-35, which will limit or interfere with their responsibilities. The application of this measure will be subject to any other act of parliament, so it really would be complementary to other statutes and would deal with those safety matters for which other federal departments have not already assumed a responsibility.

Because of the close relationship to other federal and provincial provisions as regards safety, and to ensure the effective collaboration of all those concerned in these matters, it is intended that there would be continuous consultation and exchange of ideas and experiences among the various authorities. I would like to emphasize here, too, that it certainly would be our intention to have close consultations at all times with both management and unions or management and employees with respect to the development and the enforcement of the standards.

The proposed safety legislation would have application to the operation of works, undertakings and businesses that are within the legislative authority of parliament. More specifically, the range of industries within the scope of the proposals would be the same as those to which the Canada Labour (Standards) Code Act and a number of other acts administered by the Department of Labour apply. Legislation would also apply to many federal crown corporations that are engaged in production, training or service operations of a commercial or an industrial nature: for example, Air Canada; Canadian Broadcasting Corporation; Eldorado Mining & Refining Ltd.; the National Harbours Board; the Polymer Corporation Limited and the St. Lawrence Seaway Authority.

Provision is included to make it possible for the Department of Labour to enter into agreements with provincial authorities whereby their safety services could be utilized in performing much of the field work under the act. There are, we feel, obvious advantages in having, as far as practicable, what would in effect be a single inspection service dealing with a particular matter, let us say, for example, boilers and pressure vessels or elevators in an area and which would be applying the same or essentially the same standards to both federal and provincial enterprises.

In other words, what we are striving for here, and we have had a number of discussions already with the provinces with respect to this, is a greater degree of uniformity in applying safety standards across Canada. When one considers the variety and extent of provincial standards and services which are available today, and are now being applied on a voluntary basis in some federal areas, or are capable of being so applied, the possibilities for more effective and more co-ordinated control are real and substantial.

A number of the provinces have urged the enactment of federal safety legislation as have also representatives of organized labour. The absence of this kind of legislation has given rise to many problems including the extent to which federal enterprises submit to provincial regulation and the right of provincial safety officers to carry out inspections in industries under federal jurisdiction.

It has been demonstrated in this and other countries that the object of the legislation, the control and reduction of accidents at work, can be more effectively carried out by concerted action according to accepted standards of adequate inspection and advisory services. While the immediate problem is the regulation of work places in accordance with the best standards now available or to be developed as quickly as possible, there is the longer range objective which should be kept in mind and that is, as I have indicated, the development of consistent standards across the country at the highest level attainable.

We have confidence that we can, through this legislation, with the continuing co-operation of the provinces, the accident prevention associations as well as

the employers and employees, establish a safer environment in which Canadians work. It will reduce human suffering and the loss of manpower resources. It will also have an effect on the high dollar cost of occupational accidents.

The cornerstone of this program is well developed legislation.

(Translation)

Mr. CLERMONT: A question of privilege, Mr. Chairman, there is no interpretation; the interpreter cannot be heard.

(At this point a discussion on the interpretation took place. See the Minutes of Proceedings.)

The CHAIRMAN: Shall we proceed with Mr. Haythorne now that the matter is settled?

Mr. HAYTHORNE: Mr. Chairman, I was nearly finished but I can perhaps repeat a little of what I was saying. We have confidence that we can through this legislation with the continuing co-operation of the provinces, and as I already have said, we have had excellent discussions with the provinces on this question of safety legislation, so we have assurance that we will be able to develop a good working relationship with them. With this continuing co-operation of the provinces and of the accident prevention associations, as well as of the employers and employees, we have confidence that we can establish a safer environment in which our Canadian people work. It will reduce human suffering and the loss of manpower resources. It will also have an effect on the high dollar cost of occupational accidents.

The cornerstone, we feel, of this program is well developed legislation. Based on this, we can proceed with the enforcement of the legislation in line with the standards that are drawn up and also with research and with education. As I also said earlier, we feel that consultation is a very important aspect of the work in this, as in other fields in the field of labour. We would want to maintain very close consultation at all levels with employers and with unions.

Mr. Chairman, if there are any general questions that members of the Committee might have with respect to the legislation we would be pleased to know of them. If, on the other hand, the Committee would like to proceed with an outline in somewhat more detail of the contents of the bill, clause by clause, Mr. Currie, the director of our accident prevention and compensation branch, will be glad to go over the bill clause by clause for the members of the Committee.

The CHAIRMAN: Do the Committee members have any further questions to ask of Mr. Haythorne before we proceed with Mr. Currie?

Mr. BARNETT: Mr. Chairman, it does seem to me that when we are in the area of dealing with the general explanation, or getting the beginning of the total picture in this field, it might be useful if we had some specific explanations of the relationship between the application of this bill in the provincial field and to other federal acts, how it fits into the picture of the operation of the various workmen's compensation legislation, both federal and provincial. I think we all recognize that the workmen's compensation boards in the provinces are concerned with the field of safety and with the general reduction of accidents, in the matter of economy of expenditure, if for no other reasons, in as much as

administration of inspection does lie in this field. I notice there is a clause at the end of the bill which suggests that we are going to have in our revised statutes a certain list of federal legislation which will be associated, but no reference is made there to existing federal compensation legislation.

If I might, just by way of illustration, mention a case in point on the Pacific Coast which by coincidence happened to develop just about the time I knew we were going to begin the Committee meetings in this field. I had brought to my attention the fact that as a result of a mechanical failure, or equipment failure, on the large log loading barges which are classified as vessels under our shipping legislation they had to be withdrawn from service or were withdrawn from service following a fatal accident when, according to information given to me, the deck plates to which the cranes were anchored pulled loose and toppled the crane with the operator into the sea and he was drowned. A suggestion was made to me that, and I am not sure whether this is the true picture or not, the Workmen's Compensation Board of British Columbia had indicated that they might not be prepared to honour any further claims unless and until this situation had been corrected. The latest information I have is that this is in the process of being corrected through design changes and repairs to the log barges. It does, I think, illustrate the point I am trying to make that there is a direct relationship between the question of workmen's compensation and its operation to this bill. I wonder if we could have this put into the picture at this point in our proceedings.

Mr. HAYTHORNE: Mr. Chairman. I would be happy to make a few observations and Mr. Currie might like to add something to what I say. First of all, as I am sure you are aware, Mr. Barnett, there is a difference in the administration of safety inspection work in the provinces across Canada. In some cases, notably in British Columbia, and a few others, most of the responsibility for the inspection is carried out under the Workmen's Compensation Board. In other cases it is done largely under provincial departments of labour. In some cases it is combined but, in all cases, there is an effort to maintain a close contact between the administration of workmen's compensation on the one side and the development of adequate safety standards on the other. In our case, we are planning to combine the administration of our Government Employees Compensation Act, which is our federal act, as you know, and the administration of this legislation in the same branch. We have changed the name of the branch within the last year or two to Accident Prevention and Compensation. It used to be called the Government Employees' Compensation Branch. There is no doubt that it is desirable to maintain that kind of close connection because, as you point out in your example, if you do not have people who are aware of the necessity and need for a close watch on these matters, and the compensation people are equally knowledgeable about these things, you can have the administrations going off in different directions. This is what we want to avoid.

The CHAIRMAN: May I draw the attention to the members of the Committee that Mr. Currie who is the Director of the Accident Prevention and Compensation Branch will go through the bill and give a clause by clause explanation of it. He was good enough to have copies made of these explanatory notes which will be distributed to all the members. Would you like to have Mr. Currie give a clause by clause explanation of the bill unless you have other questions to ask of Mr. Haythorne.

Mr. BARNETT: No mention was made in Mr. Haythorne's statement or in the suggested consolidation of legislation of the workmen's compensation legislation. I felt that this was, in a sense, a general question that perhaps can be further clarified when we get into the clauses of the bill.

Mr. J. H. CURRIE (*Director, Accident Prevention and Compensation Branch, Department of Labour*): We deal with it under Clause 6, Mr. Chairman.

Mr. KNOWLES: There is one question I would like to ask, and the reason I would like to ask it is that like four or five other members of this Committee I expect a summons any time to another Committee. Because the act provides coverage and also because it does name an exception or two, I would like to ask two questions.

The CHAIRMAN: Of Dr. Haythorne?

Mr. KNOWLES: Yes. The first one is: Does the legislation apply to railway shops, both C.P.R. and C.N.R. and air line hangars and shops? The second question is: Does it fail to apply to the operation of ships, trains or aircraft, and if so, why?

Mr. HAYTHORNE: The answer to the first question, Mr. Knowles, is yes, it does apply to the shops in each case.

Mr. KNOWLES: There is no qualification or modification of that at all.

Mr. HAYTHORNE: No. The answer to the second question is that, and this will become clear, I think, in Mr. Currie's explanation, it can apply to the operation of trains or ships or aircraft as you will notice in Clause 3(3). But in this case, it is to the non-operational aspects of these activities, but it could also apply to the operational aspects by order in council. Mr. Knowles, we feel we have protected both the existing legislation, where the existing legislation is satisfactory, if you like, with respect to safety and with regard to the operation of the trains, ships or aircraft, but we have also taken the precaution that if at any time additional steps are needed with respect to safety, even with respect to the operation of these transportation instruments, action can be taken through order in council.

Mr. KNOWLES: What guarantee is there that there will be no gap. You said there was no qualification about shops; all shops are covered.

Mr. HAYTHORNE: The guarantee that there will be no gap is that we are providing, where there is good evidence that the gap should in fact be closed, under this legislation which has not been closed under some other legislation, steps can be taken to do it under this legislation.

Mr. KNOWLES: My concern is that in the one case it is mandatory and in the other case it is permissive.

Mr. HAYTHORNE: This is correct.

Mr. McCLEAVE: Mr. Chairman, I would like to ask two brief questions. Would it cover, for example, work being done on a naval war ship in refit? Does this act cover it? Presumably, a naval war ship is for the advantage of two or more provinces.

Mr. HAYTHORNE: Mr. McCleave, this is a matter really of the auspices under which this activity is being carried out. If it were done by the Department of

National Defence as a direct departmental activity, then it would be covered through the Department of National Defence. Perhaps I should explain that the coverage of the bill, as it stands, just like our Canada Labour (Standards) Code Act, applies to the industries under federal jurisdiction. It does not apply directly to federal employees, but it would be the policy of the government, and I am sure Mr. Nicholson will have more to say about this later, that the same principles apply as far as federal employees are concerned, or people working for the federal government. If, on the other hand, Mr. McCleave this was a job that was being done under a federal contract, for instance, a construction contract, there is some question here.

Mr. McCLEAVE: I wonder if that could be cleared up because Mr. Douglas and I have both received a fair amount of correspondence involving a young man who lost his life while carrying out refit work on a war ship at Halifax Shipyards last year. I can see that when it is carried out at dockyards this would be under the federal establishment but Halifax Shipyards are not. It seems to me the issue has been battled back and forth as to whether anybody had responsibility for the sure and safe conditions aboard that ship at that time. I hope, sir, that that could be dealt with at another time. The other question is: Why does this bill apply only to radio broadcasting stations and no reference is made to television stations at all.

Mr. CURRIE: Mr. Chairman, by definition under the Radio Act these words cover any type of broadcasting, which includes television. We are relying upon the established phrases which are used in other statutes.

Mr. HAYTHORNE: May I ask Mr. McCleave a question? I do not think we have learned of this case that you speak of.

Mr. McCLEAVE: Mr. Haythorne, I will be glad to send you the report of the magisterial inquiry and all of the information I have in my possession.

Mr. HAYTHORNE: Would you mind? I would be pleased if you would, sir.

Mr. HYMMEN: Mr. Chairman, I have a general question similar to the one Mr. Barnett introduced. While I can appreciate the desirability of the legislation, in order to provide an umbrella, but one thing that is concerning me is this: Does this bill take precedence over other legislation? I am considering now a conflict of interest, duplication of effort and double expense. What is the position of this bill regarding other legislation where there is no gap and where provision is provided?

Mr. HAYTHORNE: Do you have any particular area in mind, because it is difficult to answer that.

Mr. HYMMEN: It is a very general question.

Mr. HAYTHORNE: I appreciate that.

Mr. HYMMEN: It may be answered in the clause by clause consideration of the bill; I do not know.

Mr. HAYTHORNE: We cannot give a blanket answer to it, I am afraid, because as I said in my opening statement, some forms of legislation—broad legislation, for example the Shipping Act, include now some provisions on safety matters. In order not to conflict any more than one can help here, we have attempted to

protect sensible safety provisions where they exist. We have not brushed everything aside and said: "We are starting *de novo* and this is going to cover everything regardless." We thought it was perhaps a better approach to accept, where there were sensible and sound standards which had been developed and where these were working well, to recognize them. As I explained earlier in my comments on Mr. Knowles' question, we felt that putting in 3(3), which Mr. Currie will explain more fully when we get to that point, we are giving this legislation the opportunity, or we are taking the opportunity under this legislation to take steps to correct any existing measures that are inadequate or to fill in gaps by an order in council regardless of the existing legislation.

The CHAIRMAN: Are you ready for the clause by clause explanation of the bill now? I wish to stand the preamble and Clause 1 of the bill. I will ask Mr. Currie to give a clause by clause explanation beginning with Clause 2.

On clause 2—*Definitions*.

Mr. CURRIE: Thank you very much, Mr. Chairman. Gentlemen, I perhaps ought to preface my comments by saying these explanatory notes were originally prepared in the form of a memo from me to myself, so that they may not be quite as finished as I would have wished them to be had I known they were coming before you today. However, I do think they may facilitate our discussion. I have attempted to elaborate where I thought necessary. I am sure the intent and implications of most of these clauses will be self-evident. With that qualification I shall proceed. I am sorry that we do not have it available in French.

Mr. CLERMONT: Mr. Chairman, will these be made available later on in French for the French speaking members. Could they be ready before the next meeting on December 6.

Mr. CURRIE: I am sure they could be, Mr. Clermont.

Mr. CLERMONT: It would be appreciated.

Mr. KNOWLES: If you read this into the record the record will be translated.

The CHAIRMAN: Yes, but it will not be translated before December 6.

Mr. KNOWLES: Touché.

Mr. CURRIE: Mr. Chairman, we will do the best we can. I am sure we can do it.

Perhaps we can go on to Clause 2. Would it be satisfactory to the Committee, Mr. Chairman, if I deal with this item by item rather quickly although pausing now and then for any interjections. It would perhaps be more valuable if we went through the whole thing so we could get it as a piece but I would be very happy to deal with any interjections that arise.

Under Clause 2(a) we used the term "employment injury" very advisedly. It is not found quite as extensively in other legislation of this kind but we wanted to be very sure that it would cover any conceivable situation that might produce harm to an employee. We cover industrial accidents, occupational diseases and hazards of any kind which might be harmful to the employee.

The other definitions there are to be found in other federal statutes and I thought it useful to note, as the deputy minister has already pointed out, the

legislation *per se*, does not apply to Her Majesty in right of Canada, although it is intended that the principles embodied in it, and the standards that will be developed under it, will be fully applied to employment under the public service of Canada.

2(e)—“Safety officer”. “Safety officer” is not as common a word as you find in other legislation of this kind but we felt it too denoted a wider appreciation of the role of these individuals. It is not just a matter of being an industrial policeman, although there is certainly a great deal of enforcement to this legislation. We want our safety officers to be advisers and consultants and technically qualified people. We do not want them to just play the role of an enforcer. We feel this broader concept is very important particularly having regard to the kind of industries to which this legislation will be applied.

The CHAIRMAN: If any member wishes to ask questions just raise your hand.

Mr. KNOWLES: Occupational disease in 2(a); I wonder if Mr. Currie would comment further on that. Is it because of a disease which has built up because of working for a long time under certain conditions or is it some immediate damage to health? Does an accident have to be something physical such as the loss of a member or can it be pneumonia because you work in a draft.

Mr. CURRIE: Or silicosis. It can be any form of pneumoconiosis or any other type of disease or disability the onset of which occurs as the result of exposure over a long period of time. This certainly would be covered. In fact, this type of gradual disablement, if you like, a gradual injury rather than—originally under the workmen’s compensation legislation there had to be a specific happening, an accident as such, an isolated event, which produced some injury. The workmen’s compensation authorities in all jurisdictions in Canada now recognize that this may happen over a period of long years of exposure. Workmen’s compensation authorities recognize these as employment injuries and we would regard any working condition or environmental factor, whether it was air or ventilation or lighting or something else which might result in some deterioration in the worker’s general health as being within this category of an occupational disease. We do not limit it to defined or scheduled diseases which you will find, for example, under the workmen’s compensation act. It is very wide indeed.

(Translation)

Mr. ÉMARD: Mr. Chairman, in Workmen’s Compensation legislation occupational diseases are specified. In many cases it would appear to me that the Act does not recognize certain conditions as such, whereas we would feel that these are, in fact, occupational diseases. I think there should be a more liberal interpretation of that definition.

(English)

The CHAIRMAN: Did you ask a question, Mr. Émard?

Mr. CURRIE: I think the member wished a wider interpretation of this phrase. I do not know how we can have any wider phrase. We are not in any way restricted to whatever interpretation is given to the phrase “industrial disease” by any workmen’s compensation board. Even there, whereas I appreciate your

comment that there are scheduled diseases, but these are not the only diseases the workmen's compensation authorities may recognize and award compensation. It is competent for the board or the Lieutenant Governor in Council or by some other means to recognize these. As a matter of fact, the Government Employees Compensation Act has wording to the effect that any disease that is peculiar to, or characteristic of the trade or occupation of the worker may be regarded as an occupational disease. Since we do not define it we do not limit it in any way whatsoever. All that has to be demonstrated is that the kinds of conditions against which this bill will be set would be something which might produce some occupational disease. With respect, I do not know how it could be any wider.

Mr. GRAY: I just wanted to ask Mr. Currie if his explanatory notes indicate that this expression has now been accepted by the International Labour Organization. I presume then that this term has been found acceptable and possibly tested in usage by various other jurisdictions.

Mr. CURRIE: This is correct. This is the wording which is now found in the most recent ILO convention on workmen's compensation principles and standards.

Mr. RICARD: Mr. Chairman, in the case of a disagreement over the recognition of occupational disease who has to make the proof? Is it the person making the claim or is there some procedure so that the injured person may have recourse?

Mr. CURRIE: Mr. Chairman, I think we may be straying a little far from the subject of the legislation. However, I think it is a good question. There are two procedures to be followed by workmen's compensation authorities. If a workman claims to be suffering from an occupational or industrial disease which is a scheduled disease, which is listed in the official documents of that workmen's compensation authority, then it is proved. No further proof is required. If it is medically attested that he is suffering from a disease and he works in a kind of a process associated with that disease as scheduled by the compensation authority there is no further proof required. If, however, the claimant is of the opinion he is suffering from an occupational disease which is not scheduled, then the burden of proof is on him to convince the workmen's compensation authority, to whom the claim has been sent, that he is in fact suffering from this disease and further that it evolves out of his employment. The two kinds of situations may arise.

Clause 3 is where we stake out our claim, if you will, of the general area to which the legislation may have application. Those of you who are familiar with other statutes administered by the federal Department of Labour will recognize this schedule of activities (a) to (i) at the outset. These are found in several other federal statutes administered by the department. The wording has been tested in the courts many times. It is not always as clear as it might be, as the previous question relating to radio broadcasting, for example, under 3(1) (f) disclosed. However, jurisprudence has been built up and established that this is, in fact, the area to which federal labour laws may apply. We are merely following this formula. You will notice that, and I think this will answer a question raised a short time ago, at the very outset of this clause 3(1), we say:

3. (1) Subject to any other Act of the Parliament of Canada.

The same phrasing is found elsewhere in the bill and I think it establishes that this legislation would not take precedence over any other federal statute which may be dealing with a similar matter. For example, there is an act dealing with the control of radioactive material under the Atomic Energy Control Act. There are regulations under this statute which are administered by the Department of National Health and Welfare and in co-operation with provincial health departments and other authorities. It would be plainly ridiculous, even though this may be a very great hazard in employment of some people, to suggest that we should take over this area. It is already being well dealt with in this highly specialized field by competent persons. One could give other illustrations but this is the point of saying: "Subject to any other Act of the Parliament of Canada." We will not replace anything; we will complement those which now exist and fill in the gaps.

(Translation)

The CHAIRMAN: Any questions, Mr. Émard?

Mr. ÉMARD: No, I don't think so, Mr. Chairman.

(English)

Mr. BARNETT: Mr. Chairman, I would just like to say that when we come to discussing this clause there are some questions related to what I would like to raise, but I would prefer to wait until Mr. Currie is finished.

Mr. CURRIE: I will try to go through it quickly.

The other explanatory notes you have on page 2 illustrate the general industrial areas we will be dealing with under the code.

Clause 3(2) deals with federal crown corporations. Listed here are those that would appear to be directly within the scope of the code.

The CHAIRMAN: Mr. Currie, the Committee must rise at 11 o'clock. We have to make room for another Committee. May I suggest that since we will not finish this by 11 o'clock that we sit next Tuesday at the same time and in the same room. After we hear Mr. Currie we will hear Mr. Gibbons of the Canadian Railway Labour Executives Association. Is this the wish of the Committee.

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Mr. Currie, you may proceed.

Mr. CURRIE: I am sure we will have a good deal of discussion on Clause 3(3). Perhaps these explanatory notes may clear up some of the areas that I am sure concern you.

Let us now turn to Clause 4 which is on page 5 of the notes. We felt it desirable to have in here a sort of omnibus provision setting down the obligations and the responsibilities of the employer. These are overriding duties and responsibilities of the employer regardless of what may be said in any specific set of regulations.

Clause 5 gives the employee a particular duty or set of duties. At the time we inserted this in the bill it was fairly novel. However, now in several provinces, provisions of a similar character are found in industrial safety legislation in the last year or two.

Mr. RICARD: With regard to the obligations of employees failing to take the necessary precautions, in your experience has there ever been any prosecutions against an employee who neglected to look after his own protection.

Mr. CURRIE: Yes, Mr. Chairman, there have been a number of prosecutions even here in the city of Ottawa. In the last year or two the local magistrates have fined employees—under other statutes of course—who failed to wear a hard hat or a life line or a safety belt or something of this kind. Other prosecutions have been taken in the province of Ontario of which I am more familiar. This may have happened in other places as well.

Mr. RICARD: Who takes the—

Mr. CURRIE: The administering authority lays a charge against the employee for not having observed a particular safety rule.

Mr. RICARD: Your supervisor or—?

Mr. CURRIE: No, it would be the local safety inspector operating in this case under the construction safety act of the province of Ontario. We have some experience in this to observe; whether or not it is totally effective one cannot say.

Mr. RICARD: I think there has to be someone after them all the time. They are supposed to observe the safety laws but they do not do so. You have to have someone looking after them all of the time.

Mr. CURRIE: It seems a sad commentary that you have to go to this extreme to get employees to do something in their own interest but this apparently is true.

Mr. Chairman, on Clause 6, I might like to deal with Mr. Barnett's question regarding the relationship of this to workmen's compensation. First of all, there is no direct relationship at all. Workmen's compensation, as administered in several provinces, as Mr. Haythorne pointed out, provinces differ in the role of workmen's compensation boards in the accident prevention field. It is very substantial in western Canada but in Ontario and the provinces east of here the workmen's compensation board's participation in this activity is quite limited. We wanted to be very certain that this bill in no way interfered with any rights or entitlement of any worker to workmen's compensation considerations. We have had discussion on this provision with the compensation authorities, and they are happy to see this sort of thing to make it very, very clear that we are in no way impinging upon these other statutory rights. In fact you will find similar clauses in the general industrial safety statutes of several of the provinces and for the same reason, that the entitlement to workmen's compensation benefits is determined under the workmen's act and nothing else.

You may have grossly neglected to wear your safety equipment and were injured as a consequence, but this is no bar to workmen's compensation benefits. We have tried to preserve the separation of these two things.

It is quite another matter when it comes to enforcing safety regulations. We have now, and will continue to have, the closest day-to-day co-operation with the provincial compensation boards in administering safety rules. In fact we have had the benefit of their experience and wisdom in drafting this legislation.

Mr. BARNETT: There is one point here, and it might be useful if there is some direct reference you could give me. The thing that I am not clear on in my own mind is in regard—I am not talking now about federal government employees but employees engaged in works or undertakings that lie within federal jurisdiction—to the area of responsibility for coverage of them by workmen's compensation. This is really what was in the back of my mind. It arose out of this suggestion that the compensation board in British Columbia was suggesting that they might have to withhold coverage in this situation that I mentioned. Now I do not know for a fact that it did happen. But it was a matter of concern as expressed to me. This is something I have never been quite clear about in my own mind. In what way are we assured that such employees are in fact under compensation coverage when the work they are undertaking is under federal jurisdiction. Is there a statutory reference that you can refer me to in this connection?

Mr. CURRIE: It is very difficult to deal with this matter in a short time because it is extremely complex. I will take a stab at it. I cannot give any particular statutory reference but let me put it this way: The workmen's compensation act of British Columbia—to illustrate—sets down all the industries to which that act does apply. If it is a statutory obligation they have no choice in the matter. It is a mandatory application to all the industries cited. There are some exceptions which are also cited. Any employee of any employer, other than the federal government or Her Majesty in right of Canada, working in the province of British Columbia, or whose head office is in the province of British Columbia, and is within the scope of Part I of the workmen's compensation act of British Columbia which is the compulsory part, is required to pay assessment and all his employees are covered without exception and even if the employer fails to pay assessment the employees are still covered and are entitled to any benefits which may accrue to them as a result of work connected injuries. I would be very surprised indeed if under the circumstances you related that the compensation board could withhold compensation benefits to such persons.

A man may be working on a ship or refitting a ship or constructing the Heron Road bridge, if you like, but he is doing this under contract with the federal government and the persons engaged on that contract or to do that particular work are not employees of Her Majesty in right of Canada: they are not employees of an industry under federal jurisdiction: they are employees of a private contractor who happens to have a contract to do something for either a government department or an industry under the control of parliament for other purposes. If the C.N.R. lets a contract for someone to build a hotel or a bridge, the construction of that piece of work is in itself not a federal work, undertaking or business. It is for these reasons that we have to distinguish between the things which are done under private contract. The test, it seems to me, is whether or not the employer is either (a) the federal government of Canada or (b) the employer is engaged in an operation which is defined in our statutes as a work, undertaking or businesses within the federal field.

Mr. BARNETT: An illustration of the case in point, and it happened quite a number of years ago, so it is rather hazy in my recollection, was a case involving the collapse of a ladder leading down into a ship's hold. A workman was on it and the ladder collapsed and he was injured in the fall to the bottom of the hold. My recollection may be faulty, but as I recall it, at the time there was some

argument or question whether or not he was going to be able to receive compensation benefits because the question of whether or not that ladder was a safe ladder did not fall within the jurisdiction of the provincial authorities. This is the area I want to be quite sure in my mind is not being overlooked. These kinds of situations—

The CHAIRMAN: Gentlemen, I have to inform you that it is now past 11 o'clock. Before we adjourn, should these explanatory notes be made an appendix to today's proceedings?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: The meeting is adjourned until Tuesday, December 6, at 9.30 a.m. It will be held in the same room. We will at that time carry on with Mr. Currie's explanatory notes and hear the evidence of Mr. Gibbons.

APPENDIX 6

EXPLANATORY NOTES

Clause 1

This title is a positive expression and conforms to the wording used in respect to the Canada Labour (Standards) Code; it is in keeping with what is contemplated under Clause 30 relating to the consolidation of a number of labour statutes; the work "code" denotes the systematic presentation of a body of related material under a variety of headings.

"Safety" is defined in a dictionary as—"freedom from danger, injury or damage"; in a provincial statute the word is defined as—"means freedom from injury to the body or freedom from damage to health."

Clause 2

(a) "employment injury"—considered in the broadest form; covers the general type of contingencies for which workmen's compensation is usually provided and is the expression now employed with reference to these matters by the ILO.

(b) "employer"—is limited to those whose operations are within the scope of the Bill.

(c) "federal work, undertaking or business"—generally similar to the provision in the Canada Labour (Standards) Code and is limited as set out in Clause 3:

Departments and departmental agencies of the federal government are not included: Sec. 16, Interpretation Act (RSC 1952-c.158)

"No provision or enactment in any Act affects, in any manner whatsoever, the rights of Her Majesty, her heirs or successors, unless it is expressly stated therein that Her Majesty is bound thereby."

(e) "safety officer"—could be any person appointed by the Minister to perform duties under the Bill and could include federal employees, provincial employees and other qualified persons; a variety of titles are used elsewhere, e.g., inspector, accident prevention officer, inspection officer, safety adviser but this seems more all inclusive of the functions to be performed, is positive and in keeping with the title of the Bill.

Clause 3

The application of the Act is circumscribed by the phrase "Subject to any other Act of the Parliament of Canada and any regulations. . . .". This means that nothing in the Bill could be construed to limit or restrict the responsibilities and operations of other federal departments who might be dealing with matters that may have some relationship to the subject of employment safety. This qualification should eliminate any duplication or overlapping of effort. The Bill therefore can be said to be complementary to any other federal legislation and activity in this field. "subject to"—means conditional upon or dependent upon

Clause 3 (1)

This Clause includes the classes of works, undertakings and businesses as they are set out in a number of other statutes administered by the Department of Labour; see list in Clause 30.

As in some of these earlier statutes, works, undertakings and businesses of a local or private nature in the Yukon Territory or Northwest Territories are excluded. If this provision were not there the Bill would take precedence over the local Ordinances dealing with any of the subject matters covered in the Bill. On the other hand, federal works, undertakings and businesses in the Territories are within the scope of the Bill.

The Yukon Council and the Northwest Territories Council possess the same powers for regulating conditions of work as a provincial legislature and are competent to deal with all matters of a local or private nature in the Territory. This provision recognizes the Councils' field of jurisdiction. Both Councils have already passed a number of Ordinances dealing with matters of safety.

The following Ordinances in the Territories regulate certain aspects as their titles suggest:

Yukon Territory

Fire prevention, blasting, mining safety, steam boilers, and public health (the last mentioned among other things authorizes the making of rules respecting the health of persons exposed to conditions, substances and processes in any industry or occupation that may be injurious to health).

Northwest Territories

Electrical protection, fire prevention, mining safety, steam boilers pressure vessels and public health (see note re Yukon).

The Code applies to the *operation* of such works, undertakings or businesses as—

interprovincial or international
highway transport and railways
interprovincial or international
canals
interprovincial or international
telephone, telegraph and cable
systems
banks
grain elevators
services connected with air and
water transportation

interprovincial or international
pipelines
interprovincial or international
ferries, tunnels and bridges
stevedoring
radio and television broadcasting
uranium mining and processing
flour and feed mills, feed ware-
houses and seed cleaning mills

Clause 3 (2)

Crown corporations that are not "departments" under the provisions of the *Financial Administration Act*

1. Agency Corporations

Atomic Energy of Canada Ltd.
Canadian Arsenals Ltd.
Canadian Commercial Corporation
Canadian National (West Indies
Steamships Ltd.)
Canadian Patents & Development
Ltd.

Centennial Commission
Crown Assets Disposal Corporation
Defence Construction (1951) Ltd.
National Battlefields Commission
National Capital Commission
National Harbours Board
Northern Canada Power Commission

2. <i>Proprietary Corporations</i>	Export Credits Insurance Corporation
Canadian Broadcasting Corporation	Farm Credit Corporation
Canadian Overseas Telecommunications Corporation	Northern Transportation Company Ltd.
Central Mortgage & Housing Corporation	Polymer Corporation Limited
Eldorado Aviation Ltd.	Seaway International Bridge Corporation Ltd.
Eldorado Mining & Refining Ltd.	St. Lawrence Seaway Authority

Agency Corporations—responsible for the management of trading or service operations on a quasi-commercial basis, or for the management of procurement, construction or disposal activities on behalf of Her Majesty.

Proprietary Corporations—responsible for the management of lending or financial operations or for the management of commercial and industrial operations involving the production of or dealing in goods and the supplying of services to the public and is ordinarily required to conduct its operations without appropriations.

Departmental Corporations—responsible for administrative, supervisory or regulatory services of a governmental nature.

OTTAWA,
December 14, 1965.

Clause 3 (3)

This general limitation relates only to "operational safety" of the transportation industry under federal jurisdiction which is or may be dealt with under other statutes administered by the Department of Transport—

(a) *Railway Act*

Under this Act the Board of Transport Commissioners has power to make orders and regulations to generally provide for the protection of property and the protection, safety and comfort of the public and of railway employees. (Ref. R.S.C. Chap. 234, Sec. 290 (1) (g) and (1)).

(b) *Canada Shipping Act*

Under this Act various inspection and other services are provided for the safety of ships' crews and passengers.

(c) *Aeronautics Act*

Under this Act effective controls are exercised over the air transportation industry in the interest of the provision of safe, efficient services.

The enforcement of safety standards on the *non-operational activities* connected with rail, ship and air transportation, are generally speaking, not subject to similar inspection and regulation. For example, railway stations, hotels, workshops and various other facilities operated by railway companies are not regulated by the Board of Transport Commissioners. Similarly the regulations issued by the Board of Transport Commissioners do not cover in the interest of safety the manner in which much of the construction and maintenance work on the railways is actually carried out.

In some railway premises in some provinces provincial inspectors carry out inspections of boilers, elevators, electrical installations, etc. on a "courtesy" basis. They do not have any authority for this and their recommendations are not enforceable. These illustrate some of the areas to which attention will be directed under the proposed Canada Labour (Safety) Code, in cooperation with the Department of Transport.

The available statistics indicate that there are considerably more employees of the railways injured in "non-train" accidents than there are in train accidents, and this suggests there is need for vigorous, positive action.

As regards the shipping industry there is at the present time no regulatory control relative to safe working conditions for stevedoring crews.

In connection with the air transportation industry there are no regulatory provisions governing the premises and terminal facilities or non-operational, commercial activities, etc. on airports which is not related to air safety. For example, garages for the repair of vehicles used in the airport area. There are also shops for personal services and restaurants as well as building cleaning and maintenance.

The same general observations with respect to provincial safety services apply to the non-operational aspects of shipping and air transport.

N.B. It will be noted that, notwithstanding this general limitation, the Governor in Council may extend the application of the Safety Code to employment in connection with the operating of ships, trains or aircraft should this become necessary.

Clause 4

(1) This expresses the general objective of the Bill and imposes an obligation on employees to carry on their activities in a way that will not endanger the safety and well-being of the employees. The primary responsibility for this rests with the employer.

endanger—expose to harm

(2) Not only must he not operate the enterprise in an unsafe way but he must take positive steps under this sub-clause to prevent employment injury.

Clause 5

This would impose upon employees an obligation to carry out their own individual functions and responsibilities in the proper way in the interest of their own safety and that of their fellow-workers. Though the imposition of this duty upon employees is not commonly found in similar provincial statutes, during the past two or three years a provision of this effect has been inserted in a few new provincial Acts.

Clause 6

(1) Intended to assure that nothing in this Bill could affect any benefit, liability or obligation of any employer or employee with respect to workmen's compensation matters generally: e.g. wilful misconduct.

(2) Irrespective of the duty of the employees under Clause 5, this sub-clause makes it clear that the general responsibility for the safe operation of the undertaking and safe employment therein resides in the employer.

Clause 7

(1) Provides for the making of necessary regulations establishing standards, practices and other requirements. From the opening words it is evident that whatever authority is contained here is subject to any other Act of the Parliament of Canada and any regulations made under such Acts.

The reason for this is that there are several Acts of Parliament dealing with specific kinds of federal works, undertakings or businesses, or aspects thereof, and these Acts contain provisions or authorize regulations that may have a bearing on the safety of employees. It is not the purpose of this Bill to supersede any such provisions or regulations. Rather it is to enable these matters to be suitably regulated where no regulations now exist.

The following Acts of Parliament under which extensive regulations are issued, illustrate this point:

Railway Act

Canada Shipping Act

Aeronautics Act

Department of National Health & Welfare Act

National Energy Board Act

These Acts are largely directed to the safety of the public and the safe operation of a service as distinct from protecting the safety of employees.

It is the intention to adopt by regulation appropriate standards now in force in the provinces where this appears desirable and practicable. On some matters new standards will be developed as required.

The list of subjects on which regulations may be issued covers the usual safety and health hazards met with in industrial employment. The list does not restrict the authority of the Governor in Council to make regulations on any other condition of work affecting the safety and health of employees. It is possible that it may not be necessary to make regulations on all the items listed, and there may be other matters which call for regulation.

(2) This sub-clause authorizes the making of regulations applicable in general to all federal works, undertakings or businesses or making them applicable to one or more federal works etc. There may be certain problems that will only pertain to particular federal industries, areas or operations and this will allow for these situations to be dealt with on a 'custom made' basis after consultation with the affected industry or undertaking. This will allow for the flexibility that is essential in dealing with so many different subjects in all 10 provinces, each of which has its own legislation, standards and enforcement.

Clause 8

It will be necessary to establish numerous advisory and consultative committees to work with departmental officials in the development of reasonable standards and to assist generally in matters arising out of the administration of the Act. It is considered desirable to have express reference to representatives of employers and employees. Comparable provisions are found in a number of provincial statutes but this is by no means the universal practice. In a few provinces there is provision for public hearings or conferences to consider proposed regulations. This provision would not operate to exclude the formation of task forces, committees or select groups of experts to do preliminary work or undertake special projects of a highly technical nature.

Clause 9

This would enable formal inquiries to be made into particular or general occupational safety problems or situations. The same provision is made in the Canada Labour (Standards) Code. See 9(2) below.

Clause 10

Provides for the designation of persons to serve as safety officers, and includes the designation of provincial inspectors and others where this is practicable and appropriate. The advisory and consultative approach will be emphasized in the duties of these officers which together with their inspection functions suggests the use of the general and more positive title of safety officer.

Clause 11

There would be many advantages to entering into agreements with the provinces for the utilization of their various inspection and related services. In each province there are a number of agencies administering different Acts and regulations in the field of industrial safety, and it is hoped that to a considerable extent these resources could, by arrangement, be made available for the purposes of the Bill.

*Clause 9 (2)**Inquiries Act—section 4:*

Power of summoning witnesses,
require them to give evidence on oath or solemn affirmation production of documents and things deemed requisite to the investigation—power to enforce attendance of witnesses and compel them to give evidence as is vested in any court of record in civil cases.

Clause 12

(1) In order for more effective action to be taken in the prevention of accidental injuries at work, it is necessary to study intensively the root causes and other factors relating to these accidents. Studies of this nature could be carried out in cooperation with other agencies which are concerned with industrial accident control.

(2) As part of the general program for promoting safety and accident prevention, this sub-clause would enable research findings and other data to be made available to all interested persons. Such technical information will provide valuable assistance in the building of regulations, codes and practices, and in developing appropriate training and training aids.

Clause 13

The purpose of this Clause is to provide for general educational and publicity work and the promotion of safety and safe work practices, which programs will be carried out in cooperation with others doing similar work. This could include, e.g. increased emphasis on safety in technical and vocational training.

Clause 14

(1) This charges the safety officer with the various duties that he might be called upon to perform in carrying out the purposes of the legislation. The range of the duties are similar to those carried out by provincial safety personnel.

(2) Enables the safety officer to have recourse to various sources of information that might have a bearing upon conditions of work, affecting the safety and health of employees and would also empower him to remove samples of materials for the purpose of analysis.

(3) Allows the safety officer the right of entry into the premises to carry out his duties in accordance with the Bill and also provides for private conversations with the employee when it may appear desirable to do so.

(4) This provides for the identification of persons carrying out inspections or performing other services under authority of the legislation.

(5) The person in charge of the operation is required by this sub-clause to facilitate the work of the safety officer and give him all reasonable assistance.

Clause 15

(1) It would be an offence for anyone to impede the safety officer in his discharge of his duties.

(2) The provision of false and misleading information to a safety officer is prohibited.

Clause 16

(1) Unless authorized by the Minister to do so a safety officer will not be required to give testimony in a civil suit with regard to information he will have obtained in carrying out his duties.

(2) This would assure the confidential nature of information obtained by a safety officer and would be an assurance to the employer that any process or trade secret to which a safety officer had access would not be disclosed except as might be required by law.

(3) Other persons, such as his superiors or departmental officials, to whom the safety officer may furnish reports and information are likewise prohibited from disclosing such confidential information.

(4) The identity of persons providing confidential information is to be protected.

(5) This would protect the safety officer from any action taken against him providing what he had done was carried out in good faith and under the authority of the law.

Clause 17

(1) In very exceptional situations where there is an imminent danger to employees, the safety officer may require that action be taken immediately or within a specified time to correct the unsafe conditions. If this cannot be done

and the danger to employees persists then he may direct that the operation be discontinued until the hazard can be removed. A provision similar to this is found in several provincial statutes and is exercised from time to time when the circumstances warrant; often referred to as a "stop order".

(2) Any direction given under this Clause must be confirmed by notice to be posted at the source of the danger so that all may be aware of the matter.

(3) When a safety officer has issued a direction to discontinue some operation this sub-clause requires that the matter or thing will not be used until the corrective action has been taken.

Clause 18

(1) Where an employer is not prepared to accept the direction of the safety officer to discontinue the operation that is considered to be an imminent danger, the employer may request the reference of the matter to a magistrate for review.

(2) The magistrate after enquiring into the matter may vary, rescind or confirm the direction and his decision will be final and conclusive.

(3) The referral of a "stop order" to a magistrate cannot operate as a stay in the execution of the safety officer's direction.

Clause 19

(1) This refers to the less serious type of situation or condition which, though requiring correction, does not constitute an imminent danger calling for immediate protection. It is usually stipulated that the hazard must be removed within a certain period. It is a provision common to provincial safety legislation.

(2) If the person receiving the safety officer's direction under this Clause considers it ill-founded or unreasonable or otherwise unacceptable, he can appeal to the regional safety officer.

(3) The regional safety officer would be empowered to review the matter, hear the employer's side, and deal with the subject matter conclusively.

(4) This would allow the acceptance of oral notice of appeal, providing that it was confirmed in writing within a short time.

Clause 20

(1) This imposes penalties for infractions by employers or persons in charge of the operation who (a) do not conform to the Act or regulations or (b) who do not act upon the direction of a safety officer or (c) who discriminate against a person who may have provided information.

(2) The employer who is found guilty of an offence is liable to a fine of up to \$5,000 or to imprisonment up to 1 year or both.

(3) Persons who are in charge, who have supervisory, managerial or other responsibilities of this kind and who are found guilty of an offence under sub-clause (1) are punishable on summary conviction. This means a fine of up to \$500 or up to 6 months imprisonment, or both.

Clause 21

(1) This would enable a penalty to be imposed upon an individual employee who might act in contravention of the Act or regulations. The penalty would be up to \$500 fine or up to 6 months imprisonment, or both.

(2) Before proceeding against an individual employee the consent of the Minister would be required. This is thought to be desirable for a number of reasons including the wish to not substitute penalties under this Bill for ordinary disciplinary action by the person's employer, or to have this penalty in addition to what the employer may do.

Clause 22

A general provision dealing with offences for which no other penalties are set out. The penalty would be up to \$500 fine or up to 6 months imprisonment, or both.

Clause 23

This Clause outlines a rule of evidence by which the copy of a direction under the Bill may be submitted to the court as prima facie evidence without production of the original.

Clause 24

This provision expands the limitation period provided in the Criminal Code for summary convictions (6 months).

Clause 25

This Clause allows for the trial of the issue to take place where the accused is resident or carrying on business notwithstanding that the offence was committed in another territorial jurisdiction.

Clause 26

This Clause expands the requirement that an information be confined to one offence.

Clause 27

In those cases where an employer is found guilty of an offence, this would enable persons in the employ of that employer to be penalized, on summary conviction, where they occupied responsible positions and where they were in a position to carry out or frustrate the carrying out of the requirements. The amount of penalty is considerably less than on summary conviction under the Criminal Code.

Clause 28

Where an employer may persist in carrying on his operations in contravention of the Bill he can be enjoined from continuing the operation by an order of a superior court. This appeared preferable to laying repeated charges against the employer for continuing offences under the Act.

Clause 29

(1) Provides the means whereby the Minister requests the furnishing of information required pursuant to the Bill. See 7(1) (G)

(2) This outlines the manner of proof in court that information requested was not supplied.

Clause 30

This would enable the 5 Acts mentioned to be brought together under a general statute dealing with conditions of employment and labour relations relating to works, undertakings and businesses under federal jurisdiction.

Clause 31

As it will take a considerable length of time to recruit the required staff and make administrative and the other necessary arrangements to bring the legislation into actual operation, an effective date will be some time distant after the Bill has been enacted.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

TUESDAY, NOVEMBER 29, 1966

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Respecting

BILL S-35

An Act respecting the prevention of employment injury in
federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: The Hon. J. R. Nicholson, Minister of
Labour; Mr. J. H. Currie, Director, Accident Prevention and Com-
pensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,

Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape
Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,

Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 29, 1966

(7)

The Standing Committee on Labour and Employment met this day at 9.45 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Guay, Hymmen, Knowles, Lachance, Mackasey, McKinley, Reid, Ricard, Tardif (13).

In Attendance: From the Department of Labour: The Hon. John R. Nicholson, Minister of Labour; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. W. B. Davis, Departmental Solicitor; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

The Chairman welcomed the Minister, Mr. Nicholson, and pointed out that the Minister would have to leave early to attend a Cabinet Meeting.

The Minister of Labour made a statement on Bill S-35, and was questioned.

At 10.15 o'clock a.m. the Chairman thanked the Minister for the Committee who left.

Mr. Currie, of the Department of Labour, then continued his clause-by-clause explanation of Bill S-35, and was questioned.

Mr. Ricard drew attention to the inclusion of a figure indicating a subclause in clause 10 of the French copy of Bill S-35. It was *agreed* that the figure indicating a subclause in clause 10 be deleted from the French copy of Bill S-35.

Later the Chairman pointed out that Mr. Gibbons, Executive Secretary of the Canadian Railway Labour Executives Association was waiting to be heard. After some discussion, it was *agreed* that Mr. Currie continue and that the Canadian Railway Labour Executives Association be heard on Thursday, December 1, 1966.

At the request of Mr. Faulkner, it was also *agreed* that the Departmental officials would try to ascertain, and supply information to the Committee, as what procedures the Provinces use to hire safety inspectors and what qualifications they are required to have.

At 10.50 o'clock a.m. Mr. Currie concluded his clause-by-clause explanation. There being no further questions, the Chairman adjourned the Committee to 9.30 o'clock a.m., Thursday, December 1, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 29, 1966.

● (9.42 a.m.)

The CHAIRMAN: Gentlemen: we have a quorum.

Mr. Nicholson has been good enough to come to this meeting today, but I understand that he has to attend a cabinet meeting at 10 o'clock.

With your permission I will first of all welcome the Minister of Labour, Mr. Nicholson, and ask him, if he so desires, to make a few comments on this bill.

Mr. NICHOLSON: Mr. Chairman and gentlemen, I think the purpose of this bill has already been outlined to you by my Deputy Minister, Mr. Haythorne, and I believe some detailed discussion had started when Mr. Currie and the other officials of the department have been in attendance.

It is a matter of great regret to me that I could not be here the day that your discussion on this bill opened. I had been under a misunderstanding; I thought that your meeting was going to be adjourned because of the request that had been received, and that a new date that had been fixed, for the hearing of a brief being presented by the Canadian Labour Congress. However, I am here and I will be glad to assist in any way you feel that I can.

The general purpose of the legislation, the industries and the activities to which it applies, as well as the course that we intend to follow in trying to achieve our objective—that is, safer work environment for those who come within federal jurisdiction—have already been explained to you.

This morning it occurred to me that I might perhaps underline what is contemplated with respect to the implementation of this bill, if you see fit to recommend it and the Commons sees fit to pass it. As you know, it has already been examined in some detail in committee in the Senate and has been approved by the Senate.

There are several important clauses in it, but there is one particular one, clause 11. That was put in, I might say, after discussion with the provincial governments. We not only had the provincial governments meet here in Ottawa, or at least have their ministers of labour meet here last January, but my deputy and I met with the ministers of labour of Quebec, Ontario, British Columbia, Manitoba and Alberta, and there may have been one or two other provinces. I know we met with the ministers of most of the provinces. We received the assurance of all of the the provinces, I might say, that, in order to avoid duplication of work, they would undertake on our behalf certain inspection services to ensure that the safety provisions provided for by this bill and the regulations would be enforced.

I may say that the provinces welcome this legislation. One or two of the provinces were sceptical about its necessity in the first place, but after it was explained to them every one of the provinces with whom we discussed it came out and supported the legislation, and most of them agreed with us that it was long overdue.

I believe that the community of interest that the federal government has with the provinces in this complex field of safety will be strengthened and improved through the passage of a bill such as this.

The fundamental principle of the bill, namely, the necessity for safety regardless of what working conditions prevail, or what emergencies exist, and the objects of the legislation, have as I say been explained to you. The bill does not cover the public service of Canada because the people who pay the bill for the government, namely, the Treasury Board, are treated more or less as another employer, and we come in to make sure that the standards that are adopted are enforced.

With respect to working conditions generally, the government, as they did the case of the Canada Labour Standards Code, will take the necessary steps to ensure that all government employment comes within the principles of this bill, as is the case under the Labour Standards Code.

As I mentioned, the Treasury Board will be in a special position. They will take the position of the ordinary employer, such as a bank, or some other organization that comes within the general scope of the bill.

I think it is of the utmost importance that the government and all branches of government live up to the letter and the spirit of the bill if it becomes law; that is so for both humanitarian, and, I think, for economic reasons. There is going to be some difficulties in the early stages of enforcement but with the effective cooperation of the provinces I would anticipate it will not be too long before we are established on a proper course.

A few years ago, an old friend of mine, who is now dead, Mr. Justice Sloan, who was Chief Justice of British Columbia, spent some years as a commissioner inquiring into the Workmen's Compensation Act of that province and the necessity for amending it. There is a passage in his report that I have thought of more than once, and my attention was drawn to it very recently by one of the officials of my department. I would like to read it:

"Man cannot be made safety-minded by legislation. Unless there is a will to safety all the regulations in the world will not by themselves prevent accidents. Alternatively, the desire to minimize hazards needs as its aids the promulgation and enforcement of fundamental regulations "governing the operations of machines and the conduct of men. These two essentials must be present in order to have and maintain an efficient accident prevention programme."

Needless to say, I am in complete agreement with that statement, and I think that the objective to which the late chief justice referred can be accomplished, because they are covered in the principles of this bill and the regulations which will be needed to implement it.

The CHAIRMAN: Gentlemen, for those who arrived after I made the introduction, the Minister of Labour will have to leave before 10 o'clock. He has to

attend a Cabinet meeting. I will take the names of any members who have questions of Mr. Nicholson. I know Mr. Reid wants to ask one question.

● (9.50 a.m.)

Mr. NICHOLSON: I may have the officials answer some of the questions.

Mr. REID: I am interested in subparagraph (d) of clause 7(1) concerning the sanitary regulations. Am I correct in assuming that provisions in this bill will not necessarily apply to railway operations, that they are already covered by regulations of the Board of Transport Commissioners

Mr. NICHOLSON: That is correct. I may say that this was gone into at considerable length by Mr. Gibbons, whom I am very pleased to see here, before a committee of the Senate. Mr. Gibbons and others speaking for the railway employees questioned this very point. He can speak for himself later, but they would have liked to have seen more teeth on this point in this bill. The Government gave this very careful consideration. There was an inter-departmental group which studied it—officials of the Department of Transport, officials of the Department of Industry, I think, the Department of Manpower and of my department. They felt that since there is a code of law and some judicial precedents that have been established as a result of the regulations approved by the Board of Transport Commissioners—we should not undo that and should let them continue in effect. I may say that we took care of that situation, I think, by provision contained in clause 3(3), at the bottom of page 2. Subclauses (1) and (2) define the scope of the industries and the activities that come within this bill, and then clause 3(3) reads:

Notwithstanding subsections (1) and (2) and except as the Governor in Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft.

Now when you get on an aircraft or are around an airport you see certain prescribed regulations, and you see the same thing on most trains—you should see it on all trains. The reason why this clause was put in is that we have recognized the jurisprudence that has been built up, but if these things do not accomplish the objectives that we have in mind, it is still open for the governor in council, on the recommendation of the Minister of Labour or a private individual, to correct or change the situation.

Mr. REID: Dealing with this matter of sanitation in the railroads and other transportation facilities, and with the Department of National Health and Welfare having been brought into it, it is my impression that the department has not been very—"enthusiastic" is not the right word—forceful in enforcing and imposing certain regulations that already exist.

Mr. NICHOLSON: Again I do not want to make a parrot of myself, but Mr. Gibbons and his associates made those same representations before the Senate committee, and I have no doubt they will be making them again today.

Mr. REID: Yes; I read that minute of the Senate committee.

Mr. KNOWLES: Mr. Chairman, Mr. Nicholson referred to the fact that this act would work well if we had the cooperation of the provinces. As I read this piece

of legislation it is exclusively a federal statute. Would Mr. Nicholson explain what he meant by that phrase?

Mr. NICHOLSON: I did, Mr. Knowles, just before you came in.

We do not want to duplicate inspection services, inspection of elevators in federal buildings and certain other services of that kind, and with my deputy I have discussed with the ministers of labour, and in most cases their deputies, the question of enforcement. We contemplate making agreements with the provinces so that to avoid duplication of services of this kind they may perform certain functions on our behalf, through their officials in their workman's compensation boards and other bodies of that nature.

Mr. KNOWLES: But it is your conviction that when this act is in effect there will be no areas of employment that are not covered by some safety legislation.

Mr. NICHOLSON: That is the intention of this bill. As mentioned earlier, we have legislation now that provides for certain health safeguards in the operation of railways, such as sanitary drinking cups and things of that kind that some people say are more respected in the breach than in the carrying out. We want to supplement any legislation that now exists that governs the activity of trains, railways, on the docks, to make sure that we have a safety code for every industry and everything that comes within the federal jurisdiction.

Mr. KNOWLES: I am still concerned about one or two points that Mr. Gibbons made before the Senate Committee, but I see that he is here and I will wait until he appears before us.

Mr. ÉMARD: Mr. Chairman, I wonder if the minister could explain why this bill was referred to a committee of the House after being passed by the Senate? Not all Senate bills come to a committee of the House, I understand, and I do not see the reason for this.

Mr. NICHOLSON: There are two reasons. This bill reached the Senate shortly before we adjourned for the summer recess. My predecessor Mr. MacEachen, had given an assurance in the House of Commons, when the Canada Labour Standards Code was going through, that this legislation would be given top priority at this particular session of Parliament, and when the time of the Commons was taken up with the St. Lawrence seaway workers' problems and other problems our schedule got behind, and in the hope that we could expedite matters it was referred to the Senate. They did study it in committee. I know I appeared before them on two occasions with officials.

One of the larger organizations, the Canadian Labour Congress, was not able to attend the two sessions of the Senate committee, and they asked that it be deferred. When the matter came up in the Commons, a similar request was made to me and to certain members of the House that this should be deferred to give them an opportunity to be heard. They represent not only the railway organizations affiliated with them but they have other industries that come within the federal ambit of jurisdiction. The Leader of the Official Opposition spoke to me, the House Leader of the New Democratic Party spoke to me, and I agreed that I would recommend to the government, and they agreed, that it should be referred to this committee for those reasons.

Mr. BARNETT: Mr. Chairman, Mr. Nicholson in his opening statement drew attention to clause 11 which is, of course, related to clause 10, in regard to the appointment of safety officers. In my view this is a very laudable feature of the bill, and I believe it does parallel a situation that has worked reasonably well in the fisheries field where, for many years, various public employees of the provinces have been designated as fisheries officers in certain matters of administration under the federal Fisheries Act.

The point I would like to refer to Mr. Nicholson is here is the question that is raised in clause 3 of the bill and which is high-lighted in my mind by the phrase at the beginning of clause 3 which says: Subject to any other Act of Parliament, this law will apply although the minister did point out what I might call the saving subclause (3). I must say that in my mind there is a considerable area for discussion on this clause. I suppose it is partly a matter of assessment or judgment, but inasmuch as I think this does involve a basic policy consideration I just wanted to say, while Mr. Nicholson is here, that I feel that we should have some definite consideration of the issues that revolve around this point.

I suggested at the last meeting that I tend to favour the approach that would say: Notwithstanding the provisions of any other bill, this law would apply. In other words, for adequate coverage in the field of safety, I would like to feel that one agency of the federal government in this case the Department of Labour, would be the coordinating and the prodding agency; in other words, my suggestion is that the role of the Department of Labour be upgraded in this connection. If one explores the situation in the major areas that lie within federal jurisdiction, and we think immediately of railways, airlines and shipping in its various forms it does seem to me that a great deal of what might be within this bill is, by virtue of this clause, excluded.

I recognize, from Mr. Nicholson's argument, that he would not want to wipe out the jurisprudence, I think—

Mr. NICHOLSON: Excuse me Mr. Barnett; I did not say that the minister would not like to wipe it out. I said that there was an inter-departmental group that had studied this and that they felt that they should not disturb the existing practices, and that they should carry on. Then we had subclause 3 put in to make it possible for the Department of Labour, or the minister or, as, I said earlier, any individual, who felt that the intent of the act was not being complied with, to move in by order in council to give greater responsibilities to the Department of National Health and Welfare, or to the Department of Labour, if such action became necessary.

Mr. BARNETT: Well, I pose this as an argument, with all due respect to the governor-in-council, because I think it is sometimes a rather ponderous undertaking to get agreement that action should be taken in the matter of regulations. If the thing were the other way around, the minister and the Department of Labour could move expeditiously to close any gaps.

The other question in my mind is the matter of people knowing where to turn when a safety problem arises. Mr. Nicholson made reference to the late Chief Justice Sloan's emphasis on the human element.

If I might just cite a case in point, I recently, had a situation brought to me in respect to the handling of explosives over a federal public wharf. This was in

effect a recurrence of something that had happened a number of years ago, and at that time, rightly or wrongly I understood from the reply I received then, as I recall, that this was a matter under the jurisdiction of the Minister of Mines and Technical Surveys under the Explosives Act. The situation was corrected. I wrote again and I had a letter recently from the minister saying that although this matter came to a certain extent under his jurisdiction, it was really a matter covered under the government's wharves regulations which are administered by the Department of Transport. Where does one begin and the other end, where explosives are brought in by vessel, put on a wharf and then loaded by truck, which then brings them under the jurisdiction on the administration of the provincial act in their transportation to the storage area? If it were clearly established under this proposed safety code bill that the Department of Labour was the co-ordinating and prime authority, then I think we could develop a knowledge of the situation among people. It is difficult enough for a Member of Parliament, but when it comes to the ordinary citizen, the question of where one turns becomes quite important.

I think that the issue raised by the present phrasing of clause 3 should be fully explored in a committee before we—

Mr. NICHOLSON: Well, Mr. Barnett, all I can say is that my deputy minister and the officials who are here with me—more particularly my deputy and Mr. Currie—put forward the viewpoint that you have expressed in the inter-departmental discussions. They were put forward very strongly.

They were met, on the other hand, by the argument that the Board of Transport Commissioners has jurisdiction over such things as level crossings, railroad crossings, and things of that kind, that they have had a broad background of experience in that field, and that there have been some judicial precedents built up, of which they do not want to lose the benefit. They took a very strong stand.

I can only repeat myself by saying that out of these discussions came the clause that has been embodied in this bill, which is reflected largely in subclause (1) and subclause (3) of clause 3. It was thoroughly developed at the inter-departmental stage and discussed at considerable length in the Senate committee and in the cabinet, but we cannot discuss what took place in the Cabinet.

Mr. BARNETT: Well, we can discuss this at some point when we get to clause 7, which has to do with regulations on this point. For example, clause 7 (1) (i) provides that under this act regulations could be made "respecting the protection of employees from fire and explosion". I mention this because of my earlier reference to the handling of explosives.

In view of the Explosive Act under Mines and Technical Surveys and the government War Regulations and the Department of Transport, I think we should know where the regulations under this act fit in?

Mr. NICHOLSON: I might say that I think the same problem exists in every one of the provinces in Canada. I know that it exists in British Columbia and Ontario, the two provinces where I have had some industrial experience, having run an industry in Ontario for ten years, where we had explosives and combustible materials in the operation of the Polymer Corporation which came within the federal jurisdiction, and, next door, Imperial Oil which came within

the provincial jurisdiction, and the chemical companies alongside it. The provincial inspectors had the same problem. They have got provincial acts as well as federal acts that they have to enforce, and I am happy that under this act, as you have mentioned already, Mr. Barnett, we are going to have the same inspectors doing it. But the provinces have this same problem, and they follow much the same course that is followed here.

The CHAIRMAN: I hope they are not waiting for you, sir, to complete a quorum at a Cabinet meeting?

Mr. NICHOLSON: Oh, no; to form a quorum at a cabinet meeting they need only three.

The CHAIRMAN: Mr. Émard.

(Translation)

Mr. ÉMARD: Mr. Chairman, I would like to know, sir, why the application of this Act, insofar as it concerns section 3, excludes the Yukon and the Northwest territories. The reference here is to "any work, undertaking or business of a local or private nature". It seems to me that in the Yukon or the Northwest Territories, it is the federal government which is often the only authority, so who is going to look after safety in those territories?

(English)

The CHAIRMAN: Which clause are you referring to?

Mr. ÉMARD: Clause 3 (1).

Mr. NICHOLSON: Well, as in other statutes, works, businesses, or, as we say in the bill, undertakings of a local or private nature that you find in the Yukon Territory or in the Northwest Territories, are excluded. If this provision were not there, this bill would take precedence over all local ordinances, and there are certain local ordinances up there that are somewhat similar to the legislation that is passed by the different provinces. Since, in the federal territories there is no provincial government, the federal government takes the place of the province except to the extent that there has been delegation to the governing council, where they can govern by ordinance, and we want to respect the ordinances up there that apply to mining and other things that would normally come within the jurisdiction of the provinces. We want to make the part that the federal government plays in the territories similar to the one it plays in the provinces, but at the same time we want to ensure that there are no loopholes.

● (10.10 a.m.)

(Translation)

Mr. ÉMARD: If I understand, sir, if I understand rightly, it says here "subject to—"

(English)

Mr. NICHOLSON: I am sorry; what are you referring to?

(Translation)

Mr. ÉMARD: Clause 3 subclause (1). "Subject to any other Act of Parliament of Canada or other regulations under this Act applies to or in respect of employment in connection with the operation of any work, undertaking or

business that is within the legislative authority of the Parliament of Canada, excluding"—and this is what I would particularly like to emphasize—"excluding any work, undertaking or business of a local or private nature in the Yukon Territory or the Northwest Territories." Sir, if I understand the government in these Territories is, in many cases, the only government with total jurisdiction in the Northwest Territories. There is no municipal council, there is no province. If I am not mistaken, this Act is not to apply to the two Territories, who may undertake some kind of enforcement if there is no municipal or provincial authority?

(English)

Mr. NICHOLSON: Mr. Currie will reply to that.

Mr. CURRIE (*Director, Accident Prevention and Compensation Branch, Department of Labour*) Mr. Chairman, if I may will just underline some of Mr. Nicholson's remarks with respect to the existence in those territories of ordinances of various kinds. In both territories the local government, which is a council in each case, has, in fact, passed ordinances to regulate many of the kinds of things which the provinces do in those organized areas.

The situation in the territories is analogous to what it will be, in the provinces under this legislation. The territories now, through various ordinances, regulate working conditions, and we have a number of them. They deal with electrical protection, fire prevention, mining safety, steam boilers, pressure vessels, public health and things of this kind.

The bill will apply to any federal work undertaking or business that operates in the Yukon or in the Northwest Territories, just as it will apply to any such undertaking operating in a province; and if we follow in the territories the same course that we intend to follow in the provinces, we will hope to have the ordinances in each of these territories effectively applied to the federal undertakings in those places, therefore one way or another so far as a safe working environment is concerned industries under federal jurisdiction will be effectively regulated.

An hon. MEMBER: This is where there is no provincial legislation—

Mr. CURRIE: As Mr. Nicholson said, they would all be protected because there is no provincial legislation; but where an ordinance does apply, we do not diminish this, we do not interfere with it, we do not restrict it in any way. We are merely seeking to have an extension of the application of these measures to federal industries in those areas.

(Translation)

Mr. ÉMARD: I understand why you speak about federal industries or works under federal jurisdiction, but I do not understand why you should exclude any business of a private character. Do I understand well, or does it mean that the federal government has no jurisdiction over the local enterprise? I felt that for private enterprise, the federal government should check what is going on.

(English)

Mr. NICHOLSON: The federal government has jurisdiction in the two territories, there is no question about that; it has complete jurisdiction in this field. But more and more we are giving to the local councils, or we have tried to give to

the local councils, more autonomy. We have already given them jurisdiction to deal with matters that are normally dealt with by provincial governments. We want that to continue.

Mr. KNOWLES: When this legislation is through, anything up north in the fields of banking, airlines, radio broadcasting, or railways, will come under this legislation or the regulations of the Board of Transport.

Mr. NICHOLSON: Yes.

Mr. KNOWLES: But anything of a local or private nature, such as Imperial Oil, which had something up there, will come under the ordinances of the local territory.

Mr. NICHOLSON: Yes.

Mr. KNOWLES: But if we did not have this saving clause in there, we would be forced to do all of it by the terms of the British North America Act.

Mr. NICHOLSON: That is right; including all the little details and minute things that are normally done by the provincial government.

The CHAIRMAN: Mr. Barnett.

Mr. BARNETT: Perhaps I might comment on the point that has been raised by Mr. Émard, as I was one of the members of the Northern Affairs Committee who toured the territories this summer.

I say at once that had this clause not been in the bill I, for one, would have been raising some questions about it because of the very strongly expressed attitudes and desires of the people we met in the northern communities that, as soon as possible, their territorial council should be allowed to move into the areas that are normally legislated on by the legislatures of the provinces. I am sure that if the northern people had become aware of its omission we would have heard about it very quickly here in Ottawa. Therefore, I, for one, am very pleased to see that in the drafting of this bill this point was taken care of, so as to ensure that there will be, as much local autonomy as possible.

Mr. NICHOLSON: Mr. Barnett, if you will allow me to supplement what was said in answer to Mr. Émard's very proper and cogent question, you will find a similar provision in the Labour Standards Code, for instance. You will find similar provisions in other federal legislation.

Mr. GUAY: In other words, this is to give assurance to the people in the Territories and the Yukon that they are not forgotten.

Mr. NICHOLSON: That is correct; and also that we want to continue to delegate to them responsibility in local fields.

The CHAIRMAN: Gentlemen, on behalf of the Committee I would like to thank Mr. Nicholson—before he leaves—Mr. Guay, have you another question?

(Translation)

Mr. GUAY: To follow up Mr. Émard's supplementary questions in the rules that pertain mostly to the Northwest Territories, are those rules as strict, or will they be added to the bill as it is written now?

(English)

Mr. NICHOLSON: My information is that the rules that now exist in the Northwest Territories are very similar to the safety regulations that you would get if they were passed by the province of Quebec, or the province of Ontario, or the province of British Columbia.

You have similar regulations applying in the mining areas of Quebec or northern British Columbia to what you have here. We believe they are effective, and to the extent that they are not effective, the initiative, we believe, in matters that do not come exclusively within the federal jurisdiction should rest with the local council; but when you get into fields that may not be covered, as Mr. Knowles has said, we want to make sure that they are covered under this bill.

(Translation)

Mr. ÉMARD: Mr. Chairman, what would be the position of the federal government in the case where complaints were lodged against a province that does not do its work effectively?

(English)

Mr. MACKASEY: Perhaps the provincial safety inspectors who are doing your duties.

Mr. NICHOLSON: I think I explained earlier, Mr. Émard, that we intend, as far as it is practical to do so and in order to avoid duplication of services, to use the provincial safety inspectors, the men who do the work for the Workmen's Compensation Board, the men who do the work under the provincial Factory Act and work of that nature. We will reimburse the provincial governments for their performance of these services. We will be paying them, and we would have, in that sense, a right of supervision to make sure that they were doing their jobs, just as with any other contractor or employee that you might engage.

Mr. ÉMARD: I do not think that I made myself clear. What would happen in the case where a report was made to the federal government about inspectors paid by the provincial government, if you like—because it does not matter who reimburses them; but in a jurisdiction that is definitely provincial, let us say—to the effect that the inspectors who are working on a certain project are not doing their job properly? That does happen, as you know. Let us say that a union makes a report to the federal government that the standards are not being applied on a particular project under provincial jurisdiction. What would be your position in such a case?

Mr. NICHOLSON: Our position would be to investigate promptly, and to make sure that the spirit of the regulations in this bill was lived up to.

In the same way, if we may take a converse case, most of the provincial governments retain the mounted police to do policing services, yet the responsibility for the administration of law and order in the province is that of the provincial government. But if the mounted police do not do their work in a particular province the attorney-general of that province, I suppose—I cannot speak from experience—promptly gets after the federal government to make sure that they do do their job. The converse would apply here, I would think.

Mr. KNOWLES: I think Mr. Nicholson has not heard Mr. Émard's question yet, or, if he has, I have misunderstood it. Has he answered your question?

Mr. ÉMARD: What did you have in mind?

Mr. KNOWLES: I thought you asked what happened if, in an industry under provincial jurisdiction—

Mr. ÉMARD: That is what he said

Mr. KNOWLES: That is what he said, yes.

Mr. ÉMARD: Not only the industry—

Mr. KNOWLES: The provincial people are not doing their jobs? The union complains—

Mr. NICHOLSON: We will not intervene in the provincial jurisdiction. That is their responsibility, not ours.

Mr. KNOWLES: The union would be told that it would have to make its complaint to the provincial government.

Mr. NICHOLSON: We have no right of supervision in these fields because of the jurisdictional division.

Mr. ÉMARD: And if a complaint has been made to the provincial government, without success, then there is no recourse—

Mr. NICHOLSON: There is no recourse to us—none at all.

The CHAIRMAN: The only thing you can do is to remember that at the next provincial election.

Mr. RICARD: Could not the union in such a case apply to the courts?

Mr. NICHOLSON: Yes, certainly they could.

Mr. RICARD: That would be the course to follow, I think.

The CHAIRMAN: I will thank Mr. Nicholson again, and I take this opportunity to invite him to all of our sittings.

Mr. NICHOLSON: Thank you very much. I will endeavour to get back for other sessions in addition to this. I am sorry that I am not going to be here to hear Mr. Gibbons and any of the other witnesses today. I will certainly do my best to attend as many of the sittings as possible. Thank you, and excuse me.

The CHAIRMAN: Thank you, gentlemen.

On clause 2 of Bill No. S-35 I call on Mr. Currie to continue his clause-by-clause explanation.

We have the French translation of the explanatory notes, and the members of the committee who wish to have it may ask the clerk. Mr. Currie.

Mr. CURRIE: Thank you, Mr. Chairman, I think we had concluded our brief encounter with clause 6 at the last meeting.

I will proceed to clause 7 and simply say that this is the real meat of this bill. It is under this clause that we would hope effectively to regulate the working conditions of people in the federal field of jurisdiction.

The items enumerated under this clause are pretty well standard areas where you will find that the provinces and the Northwest and Yukon Territories have, over the years, enacted regulations or specific legislation to meet the problems. In other words, we have tried to combine into this one clause all the

standard subject headings which may be found in a considerable variety of provincial legislation.

I think most of the headings speak for themselves. We can deal with that later.

On subclause (2), I am sure it is obvious to the Committee that not all regulations will apply equally to all industries or necessarily to all parts of the same industry; therefore, obviously one must have a provision which will enable you to apply these things reasonably and to custom-make them where that would seem to be most appropriate. This again is a standard provision which is found in virtually all industrial safety legislation.

Clause 8: If clause 7 is the meat of the bill, clause 8 is certainly a prelude to it, because under this clause we anticipate the most extensive—in fact, continuous—consultation both on a fairly formal basis, with a number of standing advisory committees representing various industries, or activities, or subject matters, as well as any number of *ad hoc* task forces, advisory groups and expert groups dealing with a particular aspect of working conditions. We hope to make the most extensive use of Clause 8.

Clause 9 is now pretty well standard in many pieces of legislation, so that we may go into a rather more extensive, formal type of inquiry than you would ordinarily conduct under other provisions of the legislation as a matter of regular application.

By clause 10 we hope to provide the necessary number of safety officials. These, as the minister explained, would largely be provincial safety inspectors and other types of officials, but literally they could be anybody with particular competence who might be appointed, either on a continuing basis or on a term bases, to do a particular job. This would be the place from which he would derive his authority as an officer under the act.

Mr. RICARD: There seems to be an error in this clause, because there is now only one—

Mr. CURRIE: I beg your pardon; there was a change from the original draft, and your notes may read a little differently.

Mr. RICARD: I have the French version, I do not know if—

Mr. CURRIE: Do you have a copy of the first reading or third reading of the bill, sir?

The CHAIRMAN: Mr. Ricard, do you have the bill?

(Translation)

We have the bill as passed by the Senate on the 30th of June 1966.

(English)

Mr. CURRIE: There was a change in the original bill as presented to the Senate and the bill as passed, and I think you will find that now clause 10 is in one part only. You may have an earlier version.

The CHAIRMAN: Is it a misprint?

Mr. CURRIE: No; we are at the later version, Mr. Chairman.

The CHAIRMAN: There is a misprint.

Mr. CURRIE: Oh, I see. There is only one section in clause 10, as revised.

The minister dealt with clause 11 this morning. We hope to make this a very workable arrangement, and we have assurances that it will be.

● (10.30 a.m.)

I might mention here that there is a great array of provincial agencies operating in this field. We have counted no fewer than 80 provincial government departments and agencies who are responsible for some aspects of administering legislation bearing upon employment safety; in any large province, as many as 8 or 10, and in the smaller ones there may be 3 or 4; but in no province is there any one provincial agency responsible for all the matters within the ambit of this legislation.

The CHAIRMAN: Mr. Faulkner, you have a question on this section?

Mr. FAULKNER: How are the safety inspectors and officials appointed? Are they appointed through competitive civil service examinations?

Mr. CURRIE: I could not answer that, since they are all appointed under the jurisdiction of the provinces, by whatever method the provinces may employ for the recruiting of staff. I think, in general, this is the principle which is adopted.

Mr. FAULKNER: If we can get any information on this I would be interested; because where the federal government is going to be using provincial personnel, I think it may be important for us to know how those people are appointed. It seems to me that it would be at least important to know whether they are appointed through competitive examination.

Mr. CURRIE: I shall try to find that out for you.

Mr. REID: I think Mr. Faulkner is worried in view of the example we have had in the recent collapse of the bridge in Ottawa here, where there was some question about the adequacy of the provincial safety officers.

Mr. FAULKNER: I had not that specifically in mind, but—

Mr. CURRIE: I will be glad to find that out, Mr. Chairman. There are at least five or six hundred persons in Canada employed in this capacity by the various provincial agencies.

Mr. KNOWLES: I think that Mr. Faulkner's point is well taken, that if they are going to be used on the federal level, we have the right to know the basis on which they are appointed.

Mr. MACKASEY: That leads to another question which I should have asked Mr. Nicholson. If we got into a legal action, Mr. Knowles, let us say, through the inefficiency of an inspector, who would be legally responsible—the federal government or the provincial government—if the provincial inspector is inspecting on behalf of the federal government?

Mr. KNOWLES: I do not propose to answer legal questions around here, but I suppose it would depend upon which legislation he was acting under.

The CHAIRMAN: Gentlemen, I would like to point out that Mr. Gibbons, who is the executive secretary of the Canadian Railway Labour Executive Association is with us today and the chairman of the committee has more or less promised

that we would hear him today. We have to vacate this room by eleven o'clock, so I would like to have your advice on this matter.

Mr. KNOWLES: We will have to have another meeting, including yourself, right now.

An hon. MEMBER: Perhaps we could hear him now.

The CHAIRMAN: I am sorry—

An hon. MEMBER: You cannot do that.

The CHAIRMAN: Is it the wish of the committee that we carry on—

Mr. MACKASEY: Mr. Chairman, I think we should, in courtesy, hear Mr. Gibbons, because this is one of the reasons why he appeared before the Commons Committee rather than strictly before the Senate Committee. But I am wondering if we have enough time to do justice to Mr. Gibbons?

The CHAIRMAN: Mr. Gibbons, could you tell us how long you would be?

Mr. GIBBONS: It is very difficult to say, Mr. Chairman, but we are not reluctant to come back again if you are short of time today. We will be only too happy to come back on another occasion, because we certainly would not want to have time interfere with our presentation and the questions that may develop.

Mr. MACKASEY: I suggest, Mr. Chairman, that you accept a motion that at the next meeting the first order of business Mr. Gibbons' appearance as a witness.

Some hon. MEMBERS: Agreed.

Mr. BARNETT: That might give us time to complete before eleven o'clock the clause-by-clause description that Mr. Currie is giving us today, and keep things in sequence.

Mr. MACKASEY: Do we have copies of the brief?

The CHAIRMAN: May I ask, Mr. Gibbons, if you would mind if the brief was distributed to the members of the Committee today?

Mr. GIBBONS: I must apologize for the fact that through lack of time and despite every effort, we were unable to have the French translation done, but we have placed 50 copies of our brief in the hands of the clerk of the committee.

The CHAIRMAN: We will distribute your brief today to the members of the Committee, and you will be the first witness to be heard at the next sitting on Thursday at 9:30 a. m. Is that agreeable to the Committee?

Mr. KNOWLES: Did you clear it with that other committee, so that we do not clash?

An hon. MEMBER: There are a lot of committees at 9:30.

The CHAIRMAN: I have to admit that we just cannot do anything more about it.

An hon. MEMBER: Does this Committee have the power to sit while the House is sitting?

The CHAIRMAN: No; unless the Committee is ready to entertain such a motion.

Mr. CLERMONT: Mr. Chairman, you may have conflict with other committees which are sitting now.

The CHAIRMAN: This room has been made available to this Committee on Thursday and also next Tuesday, December 6; and, by the way, on that date the CLC and the CNTU have undertaken to be present.

Mr. KNOWLES: Can it be understood that all the witnesses for the CRLEA, the CLC and the CNTU, when they come, appear at the start of the session?

The CHAIRMAN: We will hear Mr. Gibbons this Thursday, and I have committed the Committee to hearing the CNTU and the CLC on December 6. I have accepted this arrangement for December 6 at the last meeting.

We will distribute Mr. Gibbons' brief. I am sure the Committee will accept Mr. Gibbons' apology for not being able to have the brief translated into French, since he did not have enough time. There was, in fact, very little time available. I am afraid the Committee cannot make arrangements to have this brief translated into French by this Thursday.

Mr. Gibbons, this Thursday, you will be the first witness to be heard.

Mr. GIBBONS: That is fine, Mr. Chairman.

Mr. CURRIE: Clause 12 is largely self-explanatory. It would enable the department to undertake, in co-operation with other people, possibly with some universities as well as with other agencies, various kinds of basic research into the causes of accidents. There is really a dearth of this kind of activity in Canada, and perhaps the federal Government is in the best position to do something about this, and to make the results available to the provinces and to all other persons interested in this field.

Clause 13 simply speaks of the intention to carry out the general type of educational work that most industrial safety programmes generate. Again this would be done extensively in cooperation with all the agencies that are now operating in this field in Canada. There are many voluntary groups as well as provincial and other types of agencies doing this kind of work. I think there is a job here of co-ordination and of greater emphasis on particular aspects.

Under clause 14 we have enumerated the various duties and responsibilities and powers—in other words, the *modus operandi*—of the safety officer, and the sorts of things he will be expected to do as he goes about his daily rounds. These are fairly well patterned after the kinds of provisions that are made in provincial safety laws. They are nearly standard. I do not think that there is anything unusual about them.

(Translation)

Mr. ÉMARD: I am sorry I have to leave but I have to go to the Committee on the Public Service.

(English)

Mr. CURRIE: Clause 15 is again a standard type of provision.

Clause 16 follows along, dealing with those matters that will arise in respect to the kinds of information that the safety officer might obtain in the course of

his work, with respect to his liability, for anything done by him in the course of his duties providing it is done in good faith and under the authority of the legislation. These again are fairly standard provisions.

Clause 17 gets us into the area where there is an immediate threat to the safety or well-being of employees, and under this provision it would be possible for a safety officer—if he felt it was sufficiently serious—to order the immediate shut-down of operation until the potentially hazardous matter or thing had been corrected. This again is found in most provincial safety legislation. In most provinces, if not all, the Workmen's Compensation Boards, for example, have authority to close down an operation if they are advised by their people that it is a source of danger. This is necessary, and it is used very sparingly; but it is important that this kind of provision be available in the event of non-compliance and there is an immediate real danger to workmen.

In order to protect the employer against any unfounded or ill-advised or unreasonable acts under clause 17, clause 18 provides an avenue of appeal for the employer so that the matter may be heard before a local magistrate and be resolved. However, the reference of the matter, or the question, to the local court will, as you notice under subclause 3 of clause 18, not operate to be in effect a stay of the order given by the safety officer. It is very important, of course, that the employers have access to a tribunal of some sort to resolve these fundamental differences.

In clause 19 there are the usual items governing the day-to-day activities of the safety officer, and how he would go about seeking to have corrections made in conditions which he thought were harmful to the people working there. Again, there is the right of appeal to the regional safety officer, so that the matter may be heard at a higher level; and in the ordinary course of events, there is also the channel available always, under any administration, to refer the matter to the deputy minister or to the minister of the department that may be responsible. But this clause 19 deals with the ordinary sort of run-of-the-mill, day-to-day type of activity.

In clause 20 we make provisions for some pretty stiff penalties for non-compliance. We feel that this is important. It is necessary to have the strength here. Again, we do not expect it to be used very often. We would rather rely upon our standards which would have a wide measure of acceptance and which would be reasonable and practical, but in the last resort the courts may be required to assess a penalty.

Mr. RICARD: Are the provisions of this clause negotiable, or are they to be taken as they are? Has there been any objection on the part of the unions representing the employees up to now?

Mr. CURRIE: In respect to this clause?

Mr. RICARD: Yes.

Mr. CURRIE: No, sir; there has been no representation in respect to the enforcement provisions of this legislation from any source, to the best of my recollection.

Mr. RICARD: There has never been any objection by the unions to subparagraph (c), for instance?

Mr. CURRIE: No, Mr. Chairman.

Clause 21 is a continuation of the enforcement provisions whereby an individual employee who may be guilty of non-compliance may be penalised. We felt, however, that it was important that in such cases the minister's consent ought to be obtained in advance since the employer and/or his union have other disciplinary avenues open to them.

Again, carrying on to clauses 22 to 27 inclusive, these are matters which will govern various proceedings in the courts, the types of offences and the penalties some of which are the same as provided for in the Criminal code on summary convictions.

Clause 28 is not a universally-used provision, although it is now being found more commonly in some of the newer provincial statutes. Where an employer may persist in carrying on his undertaking in contravention of the legislation, rather than repeated fining under the ordinary offences clauses it was thought advisable to have a provision whereby an injunction could be obtained on application to the appropriate court.

I think you will recognise clause 29 as a procedural matter, and is required in connection with certification, on the provision of required information.

Clause 30 expresses the intent of consolidating this measure, if it is passed, with four other federal statutes which bear upon the general conditions of employment within the federal field of jurisdiction. This would seem to present a very fine opportunity to consolidate all these statutes.

With regard to clause 31, I am sure that the Committee will appreciate that the administrative and other preliminary work is very extensive indeed, involving the establishment of offices in the provinces, the recruitment of staff, the development of our administrative procedures and administrative regulations and so on, so that it may well be some time after this bill is approved, if it is, before we could actually go into operation.

Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Currie.

I have spoken to the clerk, and if it is agreeable to you, copies of the brief of the Canadian Railway Labour Executives Association will be distributed to all members of the committee by mail this afternoon. All members of the Committee should have a copy of the brief by this afternoon.

If there are no more questions on other business we will adjourn until this Thursday, December 1, at 9:30 a.m. in the same room. Notices will be sent.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

THURSDAY, DECEMBER 1, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Canadian Railway Labour Executives Association: Mr. A. R. Gibbons, Executive Secretary.

From the Department of Labour: Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

From the Department of Transport: Mr. Jacques Fortier, Chief Counsel.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

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ON
LABOUR AND EMPLOYMENT
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Vice-Chairman: Mr. Hugh Faulkner

and

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Mr. Duquet,
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Mr. Fulton,
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Mr. Guay,
Mr. Hymmen,
Mr. Howard,¹

Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape
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Mr. Mackasey,
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Mr. McKinley,
Mr. McNulty,

Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

¹ Replaced Mr. Barnett on Wednesday, November 30, 1966.

ORDER OF REFERENCE

WEDNESDAY, November 30, 1966.

Ordered,—That the name of Mr. Howard be substituted for that of Mr. Barnett on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, December 1, 1966.

(8)

The Standing Committee on Labour and Employment met this day at 9.48 o'clock a.m. The Vice-Chairman, Mr. Faulkner, presided.

Members present: Messrs. Clermont, Émard, Faulkner, Howard, Hymmen, Knowles, Mackasey, McNulty, Régimbal, Ricard, Tardif.

Also present: The Hon. John R. Nicholson, P.C., Minister of Labour.

In attendance: From the Canadian Railway Labour Executives Association: Mr. A. R. Gibbons, Executive Secretary; Mr. J. F. Walter, Assistant Grand Chief, Brotherhood of Locomotive Engineers.

From the Department of Labour: Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. W. B. Davis, Departmental Solicitor.

From the Department of Transport: Mr. Jacques Fortier, Chief Counsel.

The Vice-Chairman called on Mr. Gibbons to present his brief.

During the presentation, Mr. Gibbons laid before the Committee a document entitled "*Sanitary Code; Recommended Requirements for Common Carriers, Construction Camps and Eating Establishments under Federal Jurisdiction*" published by the Public Health Engineering Division of the Department of Health and Welfare in January, 1966.

At the suggestion of Mr. Knowles, it was *agreed* that the document tabled by Mr. Gibbons be filed as Exhibit "B".

Mr. Gibbons continued and later displayed a canister approximately eighteen (18) inches high with a handle and large hollow lid which was used as a water container for railway employees. He also displayed a white enamel cup. Both were in various states of disrepair, showing a great deal of rust and the cup being badly chipped. On completing his presentation Mr. Gibbons and Mr. Walter were questioned.

Later Mr. Currie and Mr. Jacques Fortier spoke briefly and were questioned.

The Vice-Chairman then brought to the attention of the Committee a letter which he had received as a reply to a question he raised in the Committee on Tuesday, November 29, 1966.

On motion of Mr. Clermont, seconded by Mr. Ricard it was

Agreed,—That the letter from Mr. Currie of the Department of Labour to Mr. Faulkner, Vice-Chairman, dated November 30, 1966 be made an appendix to

the Minutes of Proceedings and Evidence, (*See Appendix 7*), and that the Clerk be instructed to have it translated and circulated to the members of the Committee.

After thanking the witnesses, at 11.00 o'clock a.m. the Vice-Chairman adjourned the Committee to 9.30 o'clock a.m. on Tuesday, December 6, 1966.

Michael B. Kirby
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, December 1, 1966.

● (9.46 a.m.)

The VICE-CHAIRMAN: Gentlemen, I call this meeting to order. Our first witness is Mr. Gibbons, the Executive Secretary of the Canadian Railway Labour Executives' Association.

Mr. A. R. GIBBONS (*Executive Secretary, The Canadian Railway Labour Executives' Association*): Mr. Chairman, gentlemen, again I offer our apologies for not having the time to produce our brief in both languages.

We wish to express appreciation on behalf of the Canadian Railway Labour Executives' Association for the opportunity to present to your Committee our views relative to Bill S-35, an Act respecting the prevention of employment injury in Federal works, undertakings and businesses.

Our Association, the Canadian Railway Labour Executives' Association, represents the membership of all the international railway unions, which includes practically all railway employees in Canada.

On June 15, 1966, we presented a brief to the Standing Committee of the Senate on Transport and Communications on the subject matter of Bill S-35, the brief becoming part of the record of proceedings No. 6 of the Senate Committee dated June 15, 1966.

Bill S-35, cited as the Canada Labour (Safety) Code, is, in our opinion, designed to close gaps in existing legislation insofar as safety, etc. is concerned, and in this respect we endorse the principle of comprehensive coverage for all workers under its jurisdiction.

Section 3(1) of the Bill sets out those industries and undertakings that come under the authority of the legislation and section 3(1) (b) in particular covers railways which are under the jurisdiction of the Parliament of Canada.

Section 3(3) reads as follows—

“Notwithstanding subsections (1) and (2) and except as the Governor-in-Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft.”

Section 7(1) of the Bill states that the Governor-in-Council may make regulations for the safety and health of persons employed upon or in connection with the operation of any Federal work—

Section 7(1) authorizes the making of regulations respecting the provisions and maintenance of potable water supplies and of sanitary and other facilities for the well-being of employees.

What concerns us is that the Bill, while having the purpose of ensuring the carrying on of Federal works, undertakings, and so on, in a manner that will not endanger the safety and health of employees, becomes contradictory by excluding employment upon or in connection with the operation of ships, trains or aircraft, except as the Governor-in-Council may by order otherwise provide.

When the Bill first came to our attention, we addressed a joint letter to the Ministers of Transport, National Health and Welfare, and Labour, in which we expressed concern about what appeared to us to be aggravation of an already confusing situation.

Our reason for taking such a stand can only be explained by reviewing our efforts over the years to obtain reasonable sanitation standards for railway employees.

In 1949, the then Minister of National Health and Welfare, the Honourable Paul Martin, advised representatives of the railway unions that his Department had authority with regard to health and sanitation in buildings on the property of international or interprovincial railway companies.

In 1951, the Department issued a set of minimum standards entitled "Sanitary Requirements for Bunkrooms". The standards were not enforceable. Representations have been made on this matter to the Government each year in our Annual Briefs.

A new Sanitary Code was issued by the Public Health Engineering Division, Department of National Health and Welfare in January 1966. Again the Code is not compulsory and is only recommended requirements for common carriers, construction camps and eating establishments, under Federal jurisdiction.

Mr. Chairman, if I may digress just momentarily from the brief, I wish to file the sanitary code that I referred to. I might say that as a result of our annual representations to the federal government, it finally came to the attention of the Honourable Waldo Monteith when he was Minister of National Health and Welfare. We appeared before a standing committee, which recommended that the Federal government should get together with the provincial governments, the departments of Health and Welfare, and should develop a sanitary code that would be applicable to railway personnel. This is the document that was produced, and it certainly gives evidence of the necessity for and the recognition of what we, in the railway industry were far short of, namely satisfactory conditions as they related to sanitation and so on. This document consists of 108 pages. We participated in the drafting of it. Each draft was sent to us; we made suggestions, as well as the railway companies, and finally we were satisfied, with one or two minor exceptions that are related to the lack of lavatory facilities on a diesel unit, that this is an excellent code. May I file this as an exhibit?

The VICE-CHAIRMAN: Is it agreed that this document be made an Exhibit?

Some hon. MEMBERS: Agreed.

Mr. GIBBONS: We had been urging that they be given the authority of the law. In other words, this is nothing more than a minimum standard. On each and every occasion when we appeared before the cabinet we have asked that they be given regulatory authority.

Mr. KNOWLES: Can you tell us what its present status is?

Mr. GIBBONS: It is a minimum standard that the railway companies should use in construction camps, on diesel locomotives, in cabooses, on all railway property, camps and the like of that.

Mr. KNOWLES: It was issued by the Department of National Health and Welfare, but it is really just for information purposes.

Mr. GIBBONS: Recommended codes.

Mr. KNOWLES: A set of guidelines.

Mr. GIBBONS: Yes.

The Department of Transport advises us that the Board of Transport Commissioners for Canada, under Section 290 (1) of the Railway Act has authority to make orders and regulations for the protection, safety, accommodation and comfort of railway employees.

In August 1909, which is quite a while ago, the Brotherhood of Locomotive Engineers made application to the then Railway Commission for "Suitable Quarters for Firemen and Engineers at Divisional and Terminal Points", which application was heard by the Commission on November 4, 1910.

The Judgement contained in Canadian Railway Cases, Volume XI, 1911, pages 336 to 338, stated in part—

"When the engineer and fireman arrive at a divisional point and turn their engine over to the proper custodian, they are then 'off duty'. The railway company is under no more obligation to house them than it is to feed them. Section 30 of the Railway Act gives the Board authority to make orders and regulations requiring proper shelter to be provided for all railway employees 'on duty'. When these men are in at divisional points they are not 'on duty'. The whole matter must be left to the good judgment of those in charge of the operation of railways."

If that good judgment had resulted in good conditions I dare say we would not be before you today.

When Mr. R. Kerr, Chief Commissioner of the Board, was asked for an opinion on this matter when Bill S-35 was under consideration in the Senate, he expressed the opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employees on trains. We have now requested the Board to issue an order in this regard.

If I may read the exchange of correspondence into the record I then will give the committee a copy of it.

This letter is addressed to Mr. Rod Kerr, Chief Commissioner of the Board of Transport Commissioners, on November 7, 1966:

NOVEMBER 7, 1966

Mr. R. Kerr
Chief Commissioner
Board of Transport Commissioners
Ottawa, Canada
Dear Mr. Kerr:

When Bill S-35 was under consideration by the Standing Committee of the Senate on Transportation and Communications, the Railway

Brotherhoods made representation to the Committee, seeking the deletion of Clause 3(3) of the Bill.

Our proposal would, in our opinion, have brought Railway employees within the jurisdiction of the Bill.

We also wrote to the Ministers of National Health and Welfare, Transport and Labour, for the purpose of ascertaining which department has jurisdiction in the field of safety standards as they relate to railway employees.

The Honourable J. W. Pickersgill, Minister of Transport, wrote me on July 5, 1966, and attached to his letter copy of a memorandum on the matter which is set out below—

Memorandum

The Board of Transport Commissioners is empowered pursuant to Section 290 of the Railway Act to make orders and regulations for the protection, safety, accommodation and comfort of railway employees, and as the Board constitutes a court of record, the Minister of Transport has no jurisdiction in respect of the orders and regulations made by the Board.

I think this is very important because by the Ministers own admission this is not the Department of Transport, it is the Board of Transport Commissioners that have the authority.

The Chief Commissioner points out that in 1956, when the question of toilet facilities on diesel locomotives was discussed by members of the Board and the National Legislative Committee of the International Railway Brotherhoods, he suggested that a simple way of testing the Board's jurisdiction in this matter was for the Brotherhoods to make a request for an Order of the Board in a specific situation as a test case. No move was made by the Brotherhoods to proceed in this way.

The Chief Commissioner is of the opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employee on train and, however, that the Railways might dispute the Board's power and the Chief Commissioner states that if the Brotherhoods wish the Board to hold an inquiry, the Board is willing to do so and that if the Railways questioned the Board's jurisdiction the Board would rule in the matter after hearing the parties.

The Memorandum states that it is your opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employees on trains. However, you state that the Railways might dispute the Board's power and you indicate that if the Brotherhood's wish the Board to hold an Inquiry, the Board is willing to do so, and that if the railways question the Board's jurisdiction, the Board would rule in the matter after hearing the parties.

I have been instructed to request that the Board issue an Order that will require the railways under the Board's jurisdiction to provide and maintain potable water supplies and toilet and sanitary facilities for railway employees.

This raises questions and I would appreciate hearing from you as soon as possible in this respect. Is it your opinion that the Board's

jurisdiction applies only to railway employees on trains, or does the jurisdiction extend to all railway employees. If the Board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover these same employees when they are at a terminal and using railway bunkhouses etc.?

It is important that we have answers to these questions as soon as possible, so as to enable us to direct our attention to the proper authority in the event there is a division of jurisdiction.

The idea behind that was that we felt that we would be appearing before your committee, Mr. Chairman, and we wanted to have this correspondence so we could include it in the record.

On November 28, I received an answer from the Chief Commissioner, which reads as follows:

My secretary wrote to you on November 9 in respect of your letter of November 9th and said that I was in Montreal presiding at hearings and would give consideration to your letter upon my return. I have now had an opportunity to consider it.

In your letter you state:

"I have been instructed to request that the Board issue an Order that will require the railways under the Board's jurisdiction to provide and maintain potable water supplies and toilet and sanitary facilities for railway employees"

The Board will treat that request as an application for the Order requested therein. The railways are interested parties entitled to make answer and submissions and be heard and therefore a copy of your letter and of this reply will be sent to them for that purpose.

Your letter also quotes, as follows, from a memorandum received by you from the Honourable J. W. Pickersgill, Minister of Transport:

I will not quote the memorandum again.

I wish that there be no misunderstanding on the matter of the opinion mentioned in the memorandum. The opinion is my opinion, (this is the Chief Commissioner speaking) necessarily the opinion of all Board members. It is not a ruling. Should the Board's jurisdiction or power be questioned, the Board would rule on the matter after hearing the parties.

You now ask for my further opinion as follows:

This is my quote and my questions.

"This raises questions and I would appreciate hearing from you as soon as possible in this respect. Is it your opinion that the Board's jurisdiction applies only to railway employee on trains, or does the jurisdiction extend to all railway employees? If the Board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover these same employees when they are at a terminal and using railway bunkhouses, etc.?"

Mr. Kerr continues:

The Board has always been willing to inform parties respecting previous decisions; but it has been the Board's practice not to give advance opinions to parties on arguable questions of interpretation of statutes upon which it may later have to give rulings. An opinion expressed by a Commissioner before hearing the interested parties might well be premature and be subsequently varied; it might also prejudice that Commissioner's right to sit at a hearing to determine the issue; it might unduly influence a party in deciding whether to make or oppose an application or otherwise as to what action to take. For these and other reasons, the Board's practice in this respect is well founded. However, in a desire to be helpful in your consideration of the subject matter, but with misgivings as to departure from the Board's practice, I am willing to offer my views, subject to the qualifications that they are not rulings; that they are subject to further consideration, and possibly modification upon hearing the interested parties, if the question becomes an issue for determination in the course of an application; and that my views are given without knowing what views other members of the Board may have on the question.

Section 290 (I) (e) and (1) are as follows:

"290. (I) The Board may make orders and regulations—

(e) requiring proper shelter to be provided for all railway employees when on duty;—

(1) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company on or in connection with the railway."

The next part of his letter refers to the same decision that I referred to and that the Commissioners made, and I will not read that because it will be a part of the record anyway.

Reference is made to the decision whereby the board in 1910, in the case that I referred to, said that the railway companies were not legally bound to offer shelter or provide shelter for railway employees off duty.

In the light of the facts and the wording of the statute, that decision does not appear to have been erroneous. If the Board does not have power to order railway companies to provide bunkhouses, it would appear to me that it does not have power to order that sanitary facilities, etc., be provided in such bunkhouses.

As to what railway employees may be included in section 290 (I) (1), above quoted, it appears to me that the governing words in that respect are "the employees of the company, *in the running and operating of trains or the use of engines.*" I am not able at this time to give an exhaustive definition of the employees included in those underlined words.

That is the end of the quote.

The situation today then is as follows. The Department of National Health and Welfare claims jurisdiction, but to date has refused to exercise its authority beyond recommending minimum standards.

The Department of Transport, or the Board of Transport Commissioners for Canada claims jurisdiction, but only for those employees employed in the actual operation of trains, and only on trains. This is not a fact as yet, but remains to be decided upon by the Board, as indicated by Mr. Kerr.

Now the Department of Labour, through Bill S-35, is seeking jurisdiction, but wishes to qualify its jurisdiction to the degree contained in Section 3(3).

The need for legislation in the matter of health and safety on railways is unquestionable.

Diesel Engines and Caboosees, with few exceptions, do not have toilet facilities. On the CPR the drinking facilities on a Diesel are a bucket, with the lid being the common drinking cup. We have in our records, and on record with the Department of National Health and Welfare, cases involving hepatitis and tuberculosis, and one can readily see the danger to other individuals having to use common drinking cups.

In this regard, Mr. Chairman, with your permission, I would like to show the committee the type of pail that I am referring to. This is in common use on diesel locomotives on the Canadian Pacific Railway. You can examine this. I was sent this on request; it had been placed on the outgoing rack after having been scalded and cleaned, so that the engine crew could pick it up clean and fill it with water. Now this is the common drinking cup. You slosh a little water in here and drink it. If we envisage a passenger train leaving Montreal for Vancouver and envisage the number of different crews which use that same drinking cup, it certainly does not offer much protection for infectious diseases such as hepatitis and others. Now those people who look after the tracks do not have a bucket like this, they have a wooden keg. This is the cup, with "CPR" underneath, that they dip into the bucket to get a drink of water. It is a common cup, and you may have gangs of varying sizes, in numbers from ten to thirty, using that cup. If you use a wooden barrel for water long enough, you cannot even scald it. So, to cleanse it, they put a little gravel in the bottom of the barrel and slosh it around in order to cleanse the open bucket.

(The Canisters are described in the minutes of Proceedings)

Mr. KNOWLES: Are these exhibits going to the filed?

Mr. GIBBONS: My thought was just to show them to you.

Another problem that confronts us is the fact that railway employees are covered by the compensation acts of the Provinces.

The compensation boards have varying methods of "inspection", designed to assist in the preventing of employment injury. However, the inspectors are without authority to inspect railway shops or other railway work operations.

Again the question arises as to why Section 3(3) should qualify the jurisdiction that the Bill proposes to cover. Surely it would be better to recognize now that there are gaps in existing legislation and to amend Bill S-35 in such a

manner so as to close the gaps, rather than compel groups such as we represent to apply to the Governor-in-Council for an order to have employees covered by the Bill.

At the present time we have initiated a movement requesting that the Board of Transport Commissioners deal with it. Why should we, or other groups of individual citizens in Canada, have to go to these various groups on our knees, so to speak, to find out whether or not they have the jurisdiction to look after our problem.

We are of the opinion that the Bill should be amended so as to provide coverage for all railway employees not otherwise covered by existing legislation. If Mr. R. Kerr, Chier Commissioner, Board of Transport Commissioners for Canada, is correct in his opinion that the Board's authority only extends to the actual movement of trains, then Bill S-35 should be amended to cover these same employees when they are in terminals and all other employees under all circumstances in their capacity as employees, and we so recommend.

The VICE-CHAIRMAN: Thank you Mr. Gibbons. Before we get into the questioning may I say that with Mr. Gibbons is Mr. Walter, the Assistant Grand Chief, Brotherhood of Locomotive Engineers. Mr. Walter have you anything to contribute to the testimony so far, or are you just here to answer questions?

Mr. WALTER: Mr. Chairman, I am just here to answer questions.

The VICE-CHAIRMAN: Fine.

Mr. GIBBONS: With your permission, Mr. Chairman, may I just address a few remarks to the brief. When we referred, in the last paragraph, to the fact that the "Bill should be amended so as to provide coverage for all railway employees not otherwise covered by existing legislation", we are referring to the fact that the Board of Transport Commissioners under Section 290 of the Railway Act have very, very broad authority. That authority has seldom been exercised. On very few occasions has the Board issued orders or regulations, without application for such orders being made by the Railway Brotherhood—even to the extent that we had electric lights put on locomotives as a result of representations made by a Railway Brotherhood. All of the safety factors as they relate to the operation of its range—between terminals, from terminal A to terminal B—come under the Board of Transport Commissioners. Now there are numerous general orders and rules that are applicable to safe operations. One that comes to my mind is the uniform code of operating rules that is applicable all across Canada. There is a Board order that covers the design of a diesel locomotive and the specifications, and the railways are not permitted to change or alter those specifications in any way without approval of the Board. The locomotive must be so designed that the diesel fumes are expelled outside of the cab for the safety of employees. There are many aspects of safety that are covered by the Board, but they have not yet extended that authority to include health and sanitation as it pertains to the use of toilets or proper and sanitary potable water supplies on diesels or cabooses.

So that is one group that is covered by the Board. We would not very well support, as we did before the Senate, a deletion of Section 3(3) because we do recognize that there is a division of jurisdictions. But we say in all due respects and as firmly as we can, that the onus of responsibility should not be placed upon

us to decide or to initiate the move that would establish who has jurisdiction. Surely, in the preparation of such a bill, the responsibility lies with the Department of Labour, the Department of Transport and the Department of National Health and Welfare, to determine who has the jurisdiction, spell it out unequivocally, and exercise it.

Mr. NICHOLSON: May I ask this question Mr. Chairman. Do you not agree that all three departments have jurisdiction with regard to certain subjects, certainly with regard to health and welfare. Do you not agree that they have a responsibility.

Mr. GIBBONS: I cannot agree, Mr. Nicholson. I would agree to the point that I think they all should have certain responsibilities, but from our experience since 1909 we have come to the conclusion that perhaps they have the jurisdiction but we are not sufficiently legally endowed, like the Supreme Court of Canada, to determine that each has his specific jurisdiction. Look at the code; it is a wonderful code, and one that we all have agreed upon. But it is just so much paper with so many words on it without the regulatory authority. So evidently they decided that they do not have the authority. I have been listening to the representations that have been made by the Department of Transport. They claim jurisdiction, but the Hon. J. W. Pickersgill says "no, we do not have jurisdiction; only the Board of Transport Commissioners, which is a court of record, and I as Minister cannot even question their proceedings and their authority".

Now we come to the Department of Labour. I hope you do not misunderstand me, sir, but we think that the principle of this bill is wonderful. All we ask is that you spell out the authority in no uncertain terms so that we do not have to go on looking for that proverbial egg under the cup. We want to know where to go to obtain satisfaction for this unhappy situation.

The VICE-CHAIRMAN: Thank you, Mr. Gibbons. Are there any further questions, Mr. Minister.

Mr. NICHOLSON: No I wanted to hear Mr. Gibbons' testimony because I am quite interested in it.

Mr. KNOWLES: I think it is clear, Mr. Gibbons, and I hope I will be forgiven if I just ask you to underline it, that you are not concerned by whom you are covered; you just want to be sure that you are covered—and as you see the situation, there are two or three pretty serious gaps?

Mr. GIBBONS: Yes, right now in so far as workmens compensation is concerned in our provinces, and as it relates to all employees other than those in the actual movement of trains. This is still subject to interpretation. Mr. Knowles, as indicated in Mr. Kerr's letter. He will not give an exhaustive interpretation on who is covered. But if we assume that the operation of trains involves the actual movement of a train from terminal A to terminal B, then those people are covered as to their safety and working conditions pursuant to the board orders that are put out. Now, when we move into a terminal, work camp, or any other place where employees are engaged, although we are covered by the respective workmens compensation act in the various provinces, we are without the inspection of the authorities in each province because they have no right to go on railway property. So there is a gap that I think the Department of Labour can fill

immediately. When we come to health and sanitation, as opposed to covering of machinery and so on, that would normally come under conditions of employment other than as they relate to health and sanitation, we are confronted with another gap. The Board is now going to consider our application and make a determination as to whether or not it has authority to rule that it will cover those operating employees for potable water supplies, toilets and so on, on moving trains. Therefore all of the other people are still not covered, or there is no definite jurisdiction as yet because, if you read 290 (1) and then you read the section 3 (3), you will find that they are wide open for interpretation.

Section 290 (1) of the Railway Act, which is still subject to a final decision by the Board reads:

...of the employees of the company, in the running and operating of trains...

Clause 3(3) of the Act says:

...applies to or in respect of employment upon or in connection with the operation of trains...

Now that is a much broader definition than "running and operation of trains", one is the "running and operation of the train", and the other is "in connection with". Now I cannot think of an employee on the CNR, from Donald Gordon down, who is not "in connection with" the operation of a train. I think this will have to be looked at very carefully because, knowing the CPR, we will have to go to the Supreme Court in order to test it.

MR. KNOWLES: It was made pretty clear to us the other day, by the officials I believe, that Bill No. S-35 will cover railway shops. You are questioning even that, are you not?

MR. GIBBONS: With all due respect—I have a tremendous admiration and respect for Mr. Currie, both personally and as the head of that department—that is an opinion. Any Bill that we have been involved with over the years is still subject to testing in the courts. We had the experience, Mr. Knowles, as you well know, with Section 182 of the Railway Act, and we found that although we appealed the decision of the Board of Transport Commissioners on a particular case, the supreme court upheld the decision of the Board, although one of the learned chief justices wrote that in principle the employees are right, that these individuals are covered under Section 182 of the Railway Act. However, the individual who wrote the legislation was not a meticulous grammarian. That gave no satisfaction whatsoever to our people. So I say, maybe what is in order is to get some more meticulous grammarians to straighten this out so that, unequivocally, there is coverage.

THE VICE-CHAIRMAN: Are there any further questions?

MR. KNOWLES: You would be afraid that under this clause 3 there would not even be any requirement on the CPR to provide toilet facilities in the office of the president.

AN HON. MEMBER: I think it is broad enough.

MR. GIBBONS: Not likely, and that is an opinion.

MR. KNOWLES: If you think that was facetious let me relate it to a railway shop in Transcona or Weston. You are afraid that because those men are doing

work in connection with the operation of a train, they would not be covered either. I think you and I, critical though we are, would both agree that that is not the intention of Bill No. S-35.

Mr. GIBBONS: I agree, I agree, and we endorsed the principle and the intent of this bill; they are trying to close up the gaps. But in all due respect, if Mr. Kerr will not give us a more exhaustive interpretation of what running and operating of trains includes, then it seems very clear to both Jack Walter and I that somebody is going to have trouble to interpret "in connection with".

Mr. KNOWLES: In other words, you have three problems the way I see it. You have the problem you have with the Board of Transport Commissioners, to get sanitary facilities on diesel units and cabooses; you have the problem of whether or not railway workers on the ground, in the shops, are really covered, and even if both of those matters are taken care of, you have this problem of operating employees who are at terminals and who are at the moment not actually running a train.

Mr. GIBBONS: I think I should put on the record that over the years we have had wonderful co-operation from the environmental health division of the Department of National Health and Welfare. Although these standards do not have regulatory authority, they have sent inspectors in to investigate bunkhouses, and we have had improvements in that regard. But, on the other hand, this has been going on since the early 1900's. I was in Newfoundland last spring, when I visited a bunkhouse at Port aux Basques. Because it is a port, rats were there, and they got underneath the bunkhouse. So they hired a firm of rat exterminators. They came in and drilled holes in the walls and floors, and filled them up with some kind of a seed that kills rats, and then they plugged them. It killed the rats alright, but they are still in the walls and underneath the floor. Our people registered a complaint. Now, I or brother Walters, or any of my other associates, have to register that complaint with Mr. Edmonds, the head of the division. He has an inspection made, and they make a recommendation to the railway company. Anyone knows that once you have made the recommendation, even if it does not have regulatory authority, you cannot close the place up as you would under normal circumstances. In a woods camp or anywhere else where the conditions were less than satisfactory, they would put a lock on the door and arrange for other facilities. But our people are still subjected to those conditions.

The VICE-CHAIRMAN: Are there any further questions? Mr. Hymmen.

Mr. HYMMEN: From information the Minister, Mr. Currie and others have given us regarding Bill No. S-35, I am quite sure that the members of the committee feel this bill will provide for some facilities, including portable water on railways. Your exhibit A was most interesting; it seems to me that after 56 years we should be able to find a proper solution. You mentioned the CPR; does the CNR have an alternative arrangement for drinking water on their diesels?

Mr. GIBBONS: Yes, but it is not completed yet. They have put on a more suitable arrangement; there is a double container with ice and water and individual drinking cups. The CPR, on newly acquired locomotives, also has placed a similar type of drinking water facility on it, but there are still 900 odd locomotives not equipped.

Mr. HYMMEN: It seems a question of jurisdiction. I imagine it could be done if somebody insisted to the proper authority that it be done.

Mr. GIBBONS: Once we get wired down who has the authority, I do not think it will be any problem from there on.

Mr. TARDIF: What process is followed now to supply that service to them.

Mr. GIBBONS: Well I told the rest of the members it was a bucket. This is the common drinking pail and this is the cup.

Mr. TARDIF: Is that one of the deluxe models or is it just an ordinary model?

Mr. GIBBONS: It is a little smaller than we used to have, we used to have larger ones.

The VICE-CHAIRMAN: Are there any further questions? If not, I would like to thank Mr. Gibbons for his very forceful points and colourful testimony. Mr. Currie, are you anxious to say anything at this point, or at all?

Mr. CURRIE: I think I might be able to make one or two useful comments.

The VICE-CHAIRMAN: If it is the pleasure of the committee, we still have about three quarters of an hour.

Mr. CURRIE: Mr. Chairman, there are one or two comments I would like to make with respect to the brief submitted by Mr. Gibbons. I made a marginal note on the bottom of page 4. The authority of existing provincial inspection services is now limited. As Mr. Gibbons correctly points out, they do not have authority now to go onto railway premises, shops and so on. I think this is the very sort of situation Bill No. S-35 would cure. Through the agency of Bill No. S-35, these provincial inspection services will be duly authorized to go into any federal work, undertaking or business and carry out what has to be done.

Mr. CLERMONT: What section of the bill will authorize that?

Mr. CURRIE: Clause 11 is the one under which we would hope to engage the services of all kinds of provincial inspectors. And those persons engaged under Clause 11 would have all the duties, responsibilities and authorities that are contained in Clause 14 and those that follow in relation to the function of the safety inspectors.

Mr. CLERMONT: And these people will act as safety agents? They will have nothing to do with sanitation and so on.

Mr. CURRIE: Oh yes, indeed they may. The safety officer is not restricted to matter just relating to mechanical or other types of safety; the whole scope of their work relates to the safety and well-being generally of employees engaged in federal works undertaken through businesses. They will have to see, under regulations promulgated under Clause 7—which may well deal with such matters as potable drinking water, clause 7(1) (d); in (e) the fencing of machinery, (f) transportation, storage etc. of harmful substances and so on, that the safety officer is competent to exercise his judgment and insist on compliance with whatever is laid down in the regulations. So it is really quite broad.

Mr. RÉGIMBAL: But will this authority extend beyond one department, or are they going to run into the same difficulties with the final authorities, the Board of Transport Commissioners, the labour department and so on.

Mr. CURRIE: As I understand it by orders of the Board of Transport Commissioners, certain duties and responsibilities devolve upon certain employees of the Department of Transport, or the inspectors of the Board of Transport Commissioners, and the like. Certainly, it would be our expectation that the safety officers engaged to carry out duties under this legislation would not impinge upon the territory of these other inspectors. Similarly, there are responsibilities and proper functions which the officials of the department of National Health and Welfare are especially qualified to carry out. It would not be our intention to try to upstage or to replace them, but merely to use all these facilities to carry out our duties. If the Health and Welfare Department through their occupational health services, for example, would establish that the lighting, the ventilation or some other general environmental factors, were inadequate, and would recommend standards that would be applied, it would seem reasonable to me that the labour Department would accept those, consult the industries and the representatives of the employees concerned and, after due consideration, promulgate regulations based upon those recommendations, and then their safety officers would apply them. In the application of those we do not restrict ourselves to just provincial safety officers; we may well use—and I am sure we would—the competent officials of the Department of Health and Welfare or any other federal or provincial department, in assisting us in seeing that proper standards, first of all, were produced, and to use their facilities to see that they were enforced. We certainly will not have a competence in all these special fields; we do not propose having it. We will call upon the others that are available.

Mr. McNULTY: Mr. Currie, if this bill becomes legislation, would the Department of Labour have final jurisdiction? Would they be able to order that certain things be done along with the Department of Health and Welfare and others?

Mr. CURRIE: Yes, indeed. This is really the whole burden that the department proposes undertaking. It will have an enforcement role. There will be a requirement, an obligation on the part of employers and employees to comply with the regulations and standards that would be developed. This is not now the case. The Health and Welfare Department recommends standards. There is certainly doubt whether or not they are enforceable. The standards that we will adopt will definitely be enforceable, and as later clauses illustrate, there will be penalties for non-compliance.

Mr. KNOWLES: What is your comment on Mr. Gibbons' fear about the wording of Clause 3 (3), namely the phrase "in connection with the operation of trains".

Mr. CURRIE: Mr. Chairman, it is extremely difficult to be precise here. Certainly this is capable of differing interpretations. I think you have the benefit of departmental views as to what is meant here in the note that I circulated. There is little doubt in our minds, so far as clause 3 (3) is concerned, that we will have authority to fill in all the gaps that result from either a condition where the Board of Transport Commissioners did not feel it had the authority to regulate, or where having the authority to regulate, for various reasons it may not regulate as far as the legislation they have would permit them to do. The purpose of Clause 3—I think I can say this authoritatively, because we had the

most extensive discussions on this with the Department of Transport and other officials—was not, not to remove railway employees from the coverage of this legislation.

The purpose of clause 3 (3) was to make it abundantly clear that the existing legislation applicable to trains, ships and aircraft, the Railway Act, the Shipping Act, the Aeronautics Act, which primarily are concerned with the provision of safe and efficient transportation under federal jurisdiction, was not in any way interfered with, that the responsibility of the minister, that department, the Air Transport Board, the Board of Transport commissioners and the like, were unimpaired. There would be no chance for Labour department or its inspector, for example, to come along and say "This aircraft cannot fly today." or "This train may not leave the terminal today." This is drawing a pretty long bow, but theoretically I suppose this could have happened. So it is to make sure that those things that are already being regulated, or are capable of being regulated—I quite agree to that—remain the statutes that are now available and under the authority that now exists. There is nothing under Bill No. S-35 which would prevent us from filling any gaps, whether they are railway employees at the terminal just getting off the train, railway employees working in a shop, restaurant, a railway crossing, gate house, or what have you.

Mr. KNOWLES: Would the desire not to interfere with the jurisdiction, which you so well described, be interfered with if you worded clause 3 (3) simply: "in respect of employment upon ships, trains or aircraft". I am picking up Mr. Gibbons' fear of those additional words "in connection with", this seems to underline the gap. We are agreed that those who are actually on the train perhaps can best be covered under the Board of Transport Commissioners if they would just make up their minds. But it is this vague description of people whose work is in "connection with".

Mr. GIBBONS: Mr. Chairman, could I please answer that?

The VICE-CHAIRMAN: Yes.

Mr. GIBBONS: I think you have the key to it because, as Mr. Currie pointed out the other day, if we have the Board of Transport Commissioners consider our application to cover those in the running and operating of trains, insofar as health and sanitation, potable water supplies, toilets on diesels and cabooses is concerned, in the event that they say yes, we have the authority and we will put out a general order ordering the railways to equip diesels and cabooses with this, then I say that would be fine for those employees who come under the Boards jurisdiction. But right now we do not know who they are because, as Mr. Kerr says, it is still subject to a decision by the Board. If its authority extends that far it covers them insofar as health and sanitation is concerned, as well as which employees will be covered. The Railway Act's definition is much narrower; it says "in the running and operating of trains". This is not hard to interpret, but even then the Chief Commissioner will not. In the event that the decision went the other way, and the Board said no, it does not have the authority, we could then come back to the Department of Labour, having accomplished something for them, established the jurisdiction and say, now, we ask for an order by the Governor in Council to have the Department of Labour include them. I am afraid now, under clause 3 (3), that the CPR will say that every employee in the shop

is in connection with the operation of a railway; therefore, you do not have authority, and we will take you to the Supreme court of Canada to prove you do not. Do you follow me?

Mr. KNOWLES: Oh I do, that is the same CPR I have had to deal with.

Mr. GIBBONS: Exactly, they have not changed at all.

Mr. KNOWLES: Maybe an alternative to my suggestion of just reducing it to "employment upon" would be the wording from the Railway Act that Mr. Gibbons has just referred to. But at any rate, would it do any harm to the purpose that Mr. Currie has referred to, to eliminate the phrase "in connection with".

The VICE-CHAIRMAN: I would be interested in the argument for eliminating the whole of clause 3 (3). I am wondering if it is not covered adequately under clause 3 (1).

Mr. CURRIE: I think the suggestion made regarding the elimination of the words "or in connection with" certainly deserves consideration. I am sure the committee are well aware that the drafting of these bills is a long tortuous process, and this particular clause has gone through a great many versions. However, we would be very happy to give that further consideration. I do see some difficulty however, and this is purely an offhand comment. We are not only dealing with trains here Mr. Chairman; we are dealing with ships and aircraft, and it might well be as we improve our facilities for navigation on the Great Lakes, the St. Lawrence Waterway and so on, that there will be off shore, say, radio communications, aids to navigation, and so on, and it might well be that the appropriate transport authorities would feel that this was very essentially in connection with the operation of the ships, even though it was not actually on board. Again, in the case of aircraft, you have all the air traffic controlling facilities, radio communications and so on. I am not sure that it lends itself to a ready deletion of "in connection with". At the same time I recognize that it is so broad that one could argue that the man who flags you down and does not let you cross the railway crossing because there is a freight train shunting in a local yard, presumably is employed in connection with operation of a train. However, we will certainly look into that.

On another point, Mr. Chairman, "subject to any other act of parliament" is the phrasing that is used to introduce clause 3 (1). I would have thought that this establishes very clearly that nothing in Bill No. S-35 is to supplant, interfere, or diminish what may be done under any federal statute relating to similar matters. Certainly this was the intent. There is for example, the energy board act under which our national pipelines operate; there is the health and welfare act, the Aeronautics Act and others that I have mentioned, all of which may have a bearing in a number of ways upon employment and working conditions from a safety point of view. Historically these have been operating, and they have a variety of provision. It would be quite wrong, it seems to me, that we would have any overriding authority to displace any of these provisions. So, "subject to any other Act of the Parliament of Canada" was advisedly put in. I would think that since this legislation is conditional upon such things as the Railway Act, it might have taken care of the situation that is now before us. However, this matter was very extensively considered, as the Minister reported here, and also in the Senate committee. The present wording of clause 3 (3) is

a result of very extensive consideration between ourselves and the Transport Department, the Department of Justice and others, and there was a genuine concern that if clause 3 (3) were not here, it would be possible, at least theoretically, for a safety officer or some other very zealous person, under this legislation, to actually interfere with the operation of a ship, a train or some aircraft. And to make it abundantly clear, to reinforce this premise upon which the legislation was based, namely that it was subsidiary or conditional upon other federal statutes and that this could not ever be used to interfere with a safe and efficient operation of these forms of transport, this was put in to make it very explicit.

I think, Mr. Chairman, that does represent the conclusions reached by the interdepartmental group.

The VICE-CHAIRMAN: It seems to me we are faced with somewhat of a dilemma here because, on the one hand, you argue that this act does provide for the activities of safety inspectors supplementary to existing regulations governing air, rail and shipping legislation but, on the other hand, they cannot in any way interfere with the operations of these. Is it inconceivable, for instance, that there could be discovered on a train about to leave from Montreal, conditions in respect of the operations from, say, the diesel operators point of view, that constitutes a safety hazard that should prevent the train from leaving? Now it is clear, with this provision, that I guess there is nothing he can do about it. But, on the other hand, the train does leave with a safety hazard for the operator, and he does seem to have power according to your interpretation, to do something about it. At this point, we seem to be faced with some sort of a dilemma and I do not know how we will resolve it. I do not know if that is a fair interpretation of the situation, but that is the situation as it appears to me.

Mr. CURRIE: Well, if I understand your question correctly, Mr. Chairman, surely the preparations of a train for a run from Montreal to Ottawa, and all the things pertinent to that, must be carried out in accordance with the orders issued by the Board of Transport Commissioners, including how the train is made up, the compliment it is to carry and all the other running orders. Now if these are not in conformity with existing standards to provide safety for employees as well as the travelling public, it seems to me the remedy then would lie with the company under the provisions of the orders produced by the Board of Transport Commissioners. Would that not be right?

Mr. GIBBONS: That is correct Mr. Chairman. In respect of the operation of a train between terminals we are adequately covered by the Railway Act, which is administered by the Board of Transport Commissioners through general orders. But suppose there is no toilet or potable water on that diesel? This is one area where we are not covered, and where we still have to test the Boards authority, if you follow me. What we are suggesting is that if you can bring perhaps the definition in clause 3 (3) closer to the Railway Act definition, and when we finally determine the final interpretation, what employees are included in clause 290 (1) of the Railway Act in the running and operating of trains, then we will have served the Department of Labour well by defining it for them if their wording was the same as the Railway Act. And by the same token, regardless of what the Board's decision would be in that respect, we would still have recourse if it was negative—as they said, we do not have jurisdiction—then we could still

come back and apply under the wording of clause 3 (3) to the Governor in Council for an order to cover these employees in this particular aspect which are not covered.

Mr. KNOWLES: Generally speaking, you would be reasonably happy if the Board of Transport Commissioners covered everything on the trains, including water and sanitation. But you do not want to run the risk of the gap that seems to be in clause 3 (3) because of the words "in connection with". If the reconsideration that Mr. Currie refers to, produces a rewording here, we might solve the problem.

Mr. CLERMONT: Mr. Gibbons, what was the reaction of the railway company to your group's recommendations regarding drinking water facilities?

Mr. GIBBONS: If I remember rightly, the Rt. Hon. John Diefenbaker mentioned in the speech from the throne—I think it was December of 1960—that there were two points that were going to be dealt with by the government. One dealt with what he referred to as "turnaround comforts", and the other was the inequitable position that certain pensioners found themselves in. Perhaps you can correct me on the date, but I think it was December of 1960 that that speech was made.

They subsequently referred this matter to the then standing committee of the House of Commons on airlines, shipping and railways. Donald Gordon and the representatives of the CPR read their briefs. When they appeared before the committee they had a well documented brief and painted a very rosy picture as to what their attempts were in the line of bringing about more adequate sanitation facilities for those involved in the operating of trains, and the cost factor became very obvious. When you consider costs you have to relate to the diesel locomotive, I suppose, costs in the neighbourhood of a quarter of a million dollars, but a drinking water bucket—I do not know what that one out in the hall would cost, but it would be very small in relation to it—became a factor. That committee of the House did not make any recommendation for any legislation in that regard, in spite of the fact that we had come forth annually to the government, appeared before that committee and pointed out the inadequacies. So it seems that cost is a prevailing factor. I have to say, in all due respect, that since we have brought all this pressure to bear, there has been a definite attempt by the Canadian National Railways—they are using experimental toilets; they have 2 or 3 equipped—to make progress. As I indicated earlier, they have made progress in providing better drinking water facilities on diesels. They are now equipping new cabooses.

Mr. CLERMONT: What about the CPR?

Mr. GIBBONS: They are most reluctant. Let us be honest. You cannot exert the same pressure on the CPR when appearing before committees such as yours, or the government, as you can on the CNR. They refuse to be pressured.

The VICE-CHAIRMAN: I think Mr. Walter wants to speak. Before we get off this point, Mr. Jacques Fortier, the Chief Counsel of the Department of Transport is here, and he might like to say something on this particular point.

Mr. R. J. FORTIER (*Chief Counsel, Department of Transport*): Thank you Mr. Chairman. In connection with the suggestion to delete from paragraph 3 of clause 3 of the bill, the words "in connection with", I would like to point out that

of course we are not in this section concerned exclusively with the operation of trains; the exception deals also with aircraft and with ships. I would certainly ask the chairman for the opportunity to discuss this proposed deletion with the technical officers in the air services division of the Department of Transport, before agreeing to this—also with the steamship inspection branch of the Department of Transport, which regulate and control operation of ships. But, may I suggest, Mr. Chairman, that the whole question raised today by Mr. Gibbons may be said to be this. He wants provision of sanitary and comfort facilities for railway operating employees on duty on trains and on duty not on trains. Now, section 290 of the Shipping Act gives the board the power to make regulations, not only of—Mr. Gibbons quoted this section—generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains. There is another subparagraph which gives authority to the Board to make regulations requiring proper shelter to be provided for all railway employees when “on duty”.

It does not say “on duty on trains” or “on duty not on trains”. Now, it is true that the Minister of Transport is charged with the administration of the Railway Act. However, as Mr. Gibbons pointed out, the Board of Transport Commissioners, which is created under the Railway Act, constitutes a court. The orders and the decisions of the Board are enforceable in the same manner as a judgment of any other court. They are also subject to appeal to the Supreme Court of Canada. When Bill No. S-35 was before the senate committee, Mr. Gibbons, on behalf of the Association, asked that provision be made for toilet and sanitary facilities on diesel engines. This request was made to the Minister of Transport, who referred it to the Board. And the Chief Commissioner, in his reply, which Mr. Gibbons quoted, suggested that if an application was made to the Board, a hearing would be held. Recently, at the beginning of November, Mr. Gibbons made formal application for this provision on diesel engines. The matter is now before the Board. The Chief Commissioner has agreed there will be a hearing; the matter will be decided and an order will be made. That order will be subject to appeal if it goes contrary to the Association. In the event that final judgment goes against the wishes of the Association, in that case, I would say that under paragraph 3 of clause 3 of the bill, it then would be up to the Department of Labour to regulate and to control the situation, the duties of the Board having been exhausted. Now, in addition to this request that was made by Mr. Gibbons, he also asked the commissioner to rule on two further questions:

Is it your opinion that the Board's jurisdiction applies only to railway employees on trains, or does the jurisdiction extend to all railway employees? If the board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover those employees when they are at a terminal and using railway bunkhouses?

In his reply to Mr. Gibbons, the chief commissioner invoked an old decision of 1910 of the Board of Transport Commissioners. However, I would like to point out that in his letter—although he expressed some doubt as to the propriety of the chief commissioner expressing an opinion—he stated that the Board would entertain an application if the Association made an application to the Board to settle these two points. It would be open to the Association to file an application.

The application would be heard by the Board—there would be a hearing—and, again, a decision would be made which would be subject to appeal. In the final analysis, if the appeal went contrary to the wishes of the Association, then under paragraph 3 of clause 3 of Bill No. S-35 it would be open to the Department of Labour to regulate the matter. So I would suggest, Mr. Chairman, that on the question of the provision of these facilities on trains, or not on trains, for employees when on duty, that both the Railway Act and Bill No. S-35 are amply sufficient, and that the Association should have no anxiety on this point.

On the further question as to what happens in the case of ships and aircraft, well, before any amendment is made to paragraph 3, I would respectfully ask that the Department of Transport be given the opportunity to consider that.

Mr. KNOWLES: Mr. Chairman, may I ask this question. Would there not be some danger that if the Board of Transport Commissioners ruled that it did not have the authority to cover operating employees when they are off the train because of the wording in the Railway Act, that those same employees might find themselves not covered by this act because of the different phraseology—the phraseology in the Railway Act being “in the operating or running of trains”, and the phraseology in this act being “in connection with”. You heard one of the suggestions we made, if it was not proper to reduce this to only a word or two, at least have the wording the same in the two acts. Would that not be a precaution to avoid the danger of the employees falling between two stools.

Mr. FORTIER: I would suggest that if the Board makes a ruling and there is a final decision on the point that the Railway Act and the Board has no jurisdiction in respect of employment “in connection with the operation of trains”, then the other provisions in that paragraph would come into operation, and automatically the Department of Labour would have jurisdiction to deal with the matter.

Mr. KNOWLES: As I understand it, the ruling of the Board would not use the language “in connection with”. Would not the Board have to use the language in its own act.

Mr. FORTIER: Well the wording in the Railway Act generally just provides for the Board to have authority to make orders “in connection with” what is in paragraph (1) of the subparagraph of this clause—in connection with:

...proper shelter to be provided for all railway employees when on duty.

That does not say upon trains. So that if a final decision was arrived at after a decision of the Board this does not include the provision outside of trains and, automatically, I would suggest that the Department of Labour would have authority under the present paragraph (3).

Mr. GIBBONS: If I may, and with all due respect, the Railway Act does not refer to “in connection with”. Nowhere in clause 290 is the word “in connection with” referred to. It says “The Board may make orders and regulations (a) “limiting the rate of speed at which railway trains”...not “in connection with” and,

- (e) requiring proper shelter to be provided for all railway employees when on duty.

That is the key for shelters.

- (1) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the

employees of the company, in the running and operating of trains and the speed thereof or the use of engines, by the company on or in connection with the railway.

The VICE-CHAIRMAN: Gentlemen, we are faced with a problem. We have to be out of here in two minutes. It is clear that we have not resolved this particular problem. It may be the feeling of the committee that we would like to raise this again with Mr. Currie and Mr. Fortier, and Mr. Gibbons and Mr. Walters may want to come back at some later date. I regret having to cut this off, but we have to be out of here at 11.00. Before Mr. Knowles goes, I have a reply from Mr. Currie to my question regarding the appointment of safety inspectors, and I would like the approval of the committee to have this standard made an appendix to today's proceedings and the Clerk given the authority to circulate it in English and French.

Mr. KNOWLES: I so move.

Mr. RICARD: I second the motion.

Motion agreed to.

The VICE-CHAIRMAN: The next meeting will be Tuesday, December 6, when we will hear briefs from the C.L.C. and the C.N.T.U. Thank you gentlemen.

APPENDIX 7

Canada Department of Labour
Accident Prevention and
Compensation Branch

Ministère du Travail du Canada
Direction de la Prévention des
Accidents et de l'Indemnisation

Mr. Hugh Faulkner, M.P.
Vice-Chairman
Committee on Labour and Employment
Room No. 425, West Block
House of Commons
Ottawa, Ontario

Ottawa 4, Ontario
November 30, 1966

Dear Mr. Faulkner,

At yesterday's meeting of the Committee which was considering Bill S-35, Canada Labour (Safety) Code, you enquired about the methods of recruitment of safety inspectors by the provinces in view of the fact it is contemplated that these provincial officers would be looking after much of the field work under the new safety code. Obviously, in this short time, it has not been possible to make a survey of this since not only are all provinces involved but also many provincial departments and agencies are active in this general area.

However, I think this question was dealt with rather well by the Government of Canada in reporting to the International Labour Organization in 1964 in compliance with an ILO Convention (No. 81) on the subject of Labour Inspectorates. To the question,

"Please describe the status, conditions of service, recruitment, training, etc. of labour inspection staff (Articles 6, 7 and 15)"

the following answer was made:

"It is specifically stated in certain Acts in most provinces and it is general practice in all provinces, that the appointment of labour inspectors (includes safety inspectors) is subject to the provisions of the public service Act. In accordance with civil service regulations, appointments are made on the basis of qualifications only, as determined by the competent authorities. Recruitment for the public service is usually by way of competitive examination. In this way inspectors are assured of stability of employment and are independent of changes of government and of improper external influences.

"Training is mainly conducted on the job, under the supervision of a senior inspector. A new officer receives instruction concerning the laws and regulations he is to enforce, the organization and policies of the department, inspection procedures, and the problems and operations of the industrial fields he is to encounter. On-the-job training is supplemented by refresher or training courses in some provinces."

This reply to the ILO was prepared by the Department of Labour after consultation with the provinces. We have no reason to believe that the situation today is any different from what it was in 1964 and from casual observations it is apparent that an open competitive procedure is widely used in appointments of this kind.

The adequacy and the competency of inspection services is, of course, fundamental to the success of the program envisaged under the Canada Labour (Safety) Code. As Mr. Justice Charles W. Tysoe noted in his report earlier this year on the Workmen's Compensation Act of British Columbia (page 121), "It is of little value to promulgate accident regulations unless you are prepared to employ adequate staff to ensure their enforcement". I am sure that adequate here is meant not only in terms of numbers but also connotes sufficient calibre to carry out their duties effectively.

I have observed that during the last two or three years there has been some expansion and upgrading of provincial inspection staffs in terms of qualifications required, their status and remuneration. We would hope that through our projected Canada Labour (Safety) Code we could strengthen and perhaps advance this process.

Yours truly,

J. H. Currie.
Director.

JHC: jf

cc. Mr. Bryce Mackasey
Mr. M. Kirby
Mr. J.-P. Despres

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, DECEMBER 6, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Assistant Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice-President; Mr. A. Andras, Director, Legislative Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT
Chairman: Mr. Georges-C. Lachance
Vice-Chairman: Mr. Hugh Faulkner
and

Mr. Barnett,¹
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,

Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape
Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,

Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

¹ Replaced Mr. Howard on Tuesday, December 6, 1966.

ORDER OF REFERENCE

TUESDAY, December 6, 1966.

Ordered,—That the name of Mr. Barnett be substituted for that of Mr. Howard on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

TUESDAY, December 6, 1966.

(9)

The Standing Committee on Labour and Employment met this day at 9.48 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Clermont, Émard, Gray, Howard, Knowles, Lachance, Mackasey, McCleave, McKinley, Régimbal, Reid, Ricard, Tardif (13).

Also present: Messrs. Barnett and Watson (Assiniboia).

In attendance: From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. W. B. Davis, Departmental Solicitor.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice President; Mr. A. Andras, Director, Legislative Branch.

The Chairman brought to the attention of the Committee a letter from Thomas O'Grady of Lodge 934 of the Brotherhood of Railway Trainmen. The Chairman read the letter.

On motion of Mr. Reid, seconded by Mr. Ricard,

*Agreed,—*That the letter from Mr. O'Grady of the Brotherhood of Railway Trainmen be printed as an appendix to this day's Minutes of Proceedings and Evidence (*See Appendix 8*).

The Chairman also read a letter from the Minister of Labour, the Hon. John R. Nicholson, P.C., M.P.

On motion of Mr. Clermont, seconded by Mr. Régimbal,

*Agreed,—*That the letter from the Minister of Labour be printed in the record of this day's Minutes of Proceedings and Evidence (*See Appendix 9*).

The Chairman then called the witnesses from the Canadian Labour Congress. After discussion it was agreed that the C.L.C. witnesses would comment on their brief and then answer questions.

On motion of Mr. Knowles, seconded by Mr. Reid,

*Agreed,—*That the brief of the Canadian Labour Congress be printed in this day's Minutes of Proceedings and Evidence, (*See Appendix 10*).

The Witnesses then commented on their brief, pointing to areas which it emphasized. Later they, along with the Departmental officials, were questioned.

At 11.05 o'clock a.m., the questioning of the witnesses continuing, the Chairman adjourned the Committee to 9.30 o'clock a.m., Thursday, December 8, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, 6 December, 1966.

The CHAIRMAN: Good morning, gentlemen.

First, may I make some brief remarks to the members of the Committee along the same line as those made by Mr. Gibbons last week. I have received a letter from Mr. Thomas O'Grady of the Brotherhood of Railroad Trainmen, in connection with clause 3 subclause (3) of the bill. It is very brief, and perhaps I should read it.

An hon. MEMBER: Read it.

(See Appendix 8 for text).

The CHAIRMAN: Is it agreed that it be made an appendix to the minutes of proceedings and evidence?

Mr. REID: I so move.

Mr. RICARD: I second the motion.

Motion agreed to.

The CHAIRMAN: I have a letter from the Minister of Labour in connection with this matter. The letter is self-explanatory, but Mr. Nicholson is not in town today, and that is why he has sent me this letter. Is it agreed by the Committee that I read this letter?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I will read the letter.

Mr. George C. Lachance, Chairman,

Standing Committee on Labour and Employment.

Dear Mr. Lachance.

This is a 2 and a half page letter, but I think the members of the committee would like to know what Mr. Nicholson has to say about clause 3.

(See Appendix 9 for text of letter).

Is it agreed that the letter be made an appendix to the minutes of proceedings and evidence?

Mr. CLERMONT: I so move.

Mr. RÉGIMBAL: I will second that.

The CHAIRMAN: The Confederation of National Trade Unions has notified me that they will not appear today, or at any time on this bill, as they do not wish to make any more submissions at this stage of the bill. I understand from what they say that they are satisfied with the bill.

An hon. MEMBER: Have they made a submission to the Senate committee?

The CHAIRMAN: No, they have not.

An hon. MEMBER: No submission.

The CHAIRMAN: No.

Gentlemen, I have the pleasure to introduce to you today the representatives of the Canadian Labour Congress, Mr. Joe Morris, executive vice-president, to my right, and Mr. Andras, director of the legislative branch of the Canadian Labour Congress. I would ask Mr. Morris or Mr. Andras if they have any comment on the brief they have submitted to the Committee, which has been circulated to you, or is it the wish of the committee that the brief be read again and that any comments or questions be put to the witnesses?

Mr. KNOWLES: Has it been made part of the record?

The CHAIRMAN: No, not yet.

Mr. KNOWLES: I so move

Mr. REID: I will second that.

The CHAIRMAN: Did you move that it be made part of the record, or that it be an appendix, Mr. Knowles?

Mr. KNOWLES: If it is read it is part of the record, but if they are going to comment on it I think it should be an appendix.

The CHAIRMAN: Is it the wish of the committee that the brief before them be read?

Some hon. MEMBERS: No.

The CHAIRMAN: No?

Mr. KNOWLES: Perhaps you should ask the witnesses what they would prefer to do.

Mr. MORRIS: It really does not matter to us. We presented it ahead of time for the perusal of the Committee. If the committee wishes it to be read...

Mr. KNOWLES: I have suggested that it be made part of the record and that the witnesses be asked to comment on it.

Mr. REID: I have seconded that.

Motion agreed to.

Mr. ANDRAS: Mr. Chairman, and members of the Committee, this submission is made on behalf of the Canadian Labour Congress, a trade union centre, the largest trade union centre in Canada, representing some 1,300,000 workers, a very considerable number of whom are in the federal domain.

The Canadian Labour Congress has had a consistent record of interest in the whole issue of occupational health and safety, and this is really the reason why it appears before you today. The Bill No. S-35, which you are now considering, is a piece of proposed legislation which the congress has viewed with a great deal of interest, and I should say with pleasure, that such a bill should have been brought forward. Our only regret would be that it has taken so long to introduce such a measure in the federal domain. By and large, therefore, in terms of the principles involved in this proposed legislation, we would favour it. On the other hand, when we examine the bill in detail then we have some reservations, and I would like briefly to deal with these.

The first reservation—and this is the principal one, and was dealt with in the letter, which you have just heard, from Mr. Nicholson, the Minister of Labour—is the question of conflict of jurisdictions, and the consequential exclusion of certain industries from the province of the bill, at least insofar as the Department of Labour is concerned. It is our feeling that this makes for a weakness in the legislation, which will not correct the present situation, and on which you have preferred to see them placed in the same category as other employees, and of the bill.

Clause 3 subclause(1) makes the conventional description of those industries and undertakings which come within the federal domain. This language is quite familiar to us, and, I am sure, to everyone present here. Ordinarily, if the bill had stayed there with clause 3 (1) we would not have taken serious exception, with one extra group that we would have wanted to see in—and I might as well mention it now—and that is the inclusion of the public service of Canada. We regret that the government did not see fit to include Her Majesty in right of Canada as an employer. According to the record, Mr. Nicholson points out—I think in proceedings No. 9 of the Senate Committee study of this bill—that the public service are under the jurisdiction of Treasury Board. We would have preferred to see them placed in the same category as other employees, and coming within the province of this bill.

Beyond that, however, we observe that the intent of the bill is to maintain a divided jurisdiction over matters of occupational health and safety. Certain employees are to remain under the Department of Transport; others are to be subject to supervision by the Department of Health and Welfare; and still others, generally, under the Department of Labour. I suppose we might not have objected to this if there had been a clear-cut and unambiguous record of very careful and effective supervision by the Departments of Transport and Health and Welfare over the employees who come within the purview of these departments. But you have already had representations—and the Senate committee before you—by the railway workers' unions, and I believe by those in air transport, that the *status quo* is not satisfactory; that the degree of supervision or care by government departments over railway workers and airline workers is not good; that the Railway Brotherhoods, in particular, have spent easily 20 years or more in seeking to get appropriate standards of occupational health and safety for their members, but without success. And the reason for this is a lack of clear-cut jurisdiction.

We would therefore, have to say—and we do in our brief to you today—that Bill No. S-35, however desirable it may be in other respects, is deficient in that it maintains this lack of clarity on jurisdiction, and a consequential lack of effectiveness in providing for the health and safety of employees who come under clause 3, sub-clause (3), and that would be employees connected with the operation of ships, trains or aircraft.

I wish to emphasize, on behalf of my colleague and myself, that this is really the nub of our representations here today. We have other matters of detail to which we refer in our brief, and I shall deal with them rather quickly in order to provide you with the time that you require for cross-examination.

We have taken exception to the exclusion of the Northwest Territories and the Yukon, insofar as the coverage of this bill is concerned. These areas, although

they are now still small in population, nevertheless have employers with employees of various categories, and it is a gap in the legislation to omit these territories which are so clearly within the competence of the Parliament of Canada. We believe that the bill to that extent has been weakened.

Now, there are, in a number of cases, references in the bill to action by the minister, which is permissive rather than mandatory. I will give you, as an illustration clause 8 of the proposed legislation, which says:

The Minister may establish consultative and advisory committees on which employees and employees are represented to advise the Minister . . .

We would wish to see the word "may" deleted, and the word "shall" substituted for it, because from our point of view the establishment of such committees should be a requirement of the legislation and not merely an option on the part of the minister. We would, in the context of the same clause 8 suggest that it should read "The Minister shall establish consultative and advisory committees on which employers and employees are equally represented". We are firmly wed to the principle of equality of representation on government committees. We endorse the principle of tripartite committees, but where they are to be established we want to be assured that the employee representation shall be not less than that of the employers. Therefore, in regard to clause 8 we would have two suggested changes "Shall" for "may" and the inclusion of the word "equally" before "represented".

In the case of clauses 12 and 13, we again wish to see "may" taken out, and "shall" put in. In the case of clause 12, the opening phrase is:

The Minister may undertake research into the cause of and the means of preventing employment injury . . .

We would want "shall" substituted for "may" in the first line of that provision, and, presumably we should make it consistent through the piece: Here is a second "may" in line 34.

In the case of clause 13 the opening phrase is:

The Minister may undertake programs to reduce or prevent employment injury . . .

We are quite strong in our view that the term should be "shall" in that instance because of the importance of the subject matter.

In the case of clause 4 subclause (2) we do suggest in our brief the deletion of some words which to us seem to minimize the importance of the programs to be undertaken. I refer to the words "or reduce the risk" in line 8 of subclause (2). The subclause reads:

Every person operating or carrying on a federal work, undertaking or business shall adopt and carry out reasonable procedures and techniques designed or intended to prevent or reduce the risk of employment injury . . .

We would like to see the emphasis on prevention rather than on reduction. We are apprehensive about the inclusion of the phrase "reduce the risk" because it may lead to a second-best kind of program rather than one with a strong emphasis on prevention. And on the basis of very long experience in the field of occupational health and safety, we are firmly convinced that the greatest contribution that can be made to the health and well-being of employees on the job are sound and adequate preventive measures.

There are other clauses in the bill which deal with inspectors and the function of inspection. We are concerned in this respect, not with the provisions as they are, because we agree with the need for inspectors and for them to have the necessary authority to carry out their duty. What we are concerned about is the adequacy of inspectors; that there should be enough of them; that they should be properly trained; and that they should have the necessary *savoir faire*, I suppose, to go into places of employment and be able to discern hazards, or potential hazards, and at that point be able to put a stop to any operation in the establishment which is, or threatens to become, a hazard to the employee who is engaged on it.

There is one other matter that I will deal with, and I will deal with it briefly. If my vice-president wishes, he can elaborate on it, and then we will be prepared to answer the questions.

I refer to clause 14 (2) subparagraph (d). Clause 14, as a whole deals with the powers of a safety officer, and they are quite extensive powers. Basically, I want to make it clear that we do not quarrel with the need to give a safety inspector a good deal of authority, because that is the only way in which we can be sure that he can put a stop to dangerous operations. The only matter that troubles us is subparagraph (d) of subclause (2) which gives the inspector the right to demand disclosure of records.

Now, we can well appreciate that records are important to an inspector in carrying out his duties. What we are troubled here with, is some invasion of the privacy of employees, of trade union committees, and the possibility that what are normally closed union records—minutes of meeting and so on—may be open for what amounts to public inspection. If we had some assurance that this would not lead to abuse, then, I think we would be satisfied. But as it reads now, we have some apprehension about the inclusion of Clause 14 (2) (d).

Substantially, therefore, Mr. Chairman and members, we consider the bill desirable, and we would like to see it obtain speedy passage, but we would like to see it corrected in the ways that I have just outlined to you, and which are set out much more elaborately in the brief itself.

Simply to reiterate, we would like to see clause 3 subclause (3) taken out and jurisdiction placed squarely in the Department of Labour. We would then know where to look if we had grievances. The experience that we have—the advice that we get from our affiliated unions, particularly in the railway and airlines industries—is that the present situation is not satisfactory, and therefore we want to have it changed.

Mr. Morris has drawn my attention to another matter which we deal with in our brief, and that is clause 19 subclause (2). The bill includes what, in effect, is an appeals procedure against a decision of a safety officer. Our feeling is that this clause taken as a whole, and more particularly clause 19 subclause (2), may lead to unnecessary delays in carrying out this whole process of review. We would ask you to give this consideration with a view to suitable change.

Thank you, Mr. Chairman.

The CHAIRMAN: Do you have any further comments, Mr. Morris?

Mr. MORRIS: No; thank you, Mr. Chairman.

The CHAIRMAN: Dr. Haythorne, I understand that you followed very closely the remarks of Mr. Andras. Do you have any comments on these remarks?

Dr. HAYTHORNE (*Deputy Minister, Department of Labour*): Do I have to comment now, or after questioning time?

The CHAIRMAN: Or during, as you wish.

Mr. MACKASEY: Mr. Chairman, possibly Mr. Haythorne was waiting for and anticipating the questions I suggest that the members might have an opportunity to put questions, and perhaps at about a quarter of eleven he can comment on them.

The CHAIRMAN: Are the members of the committee ready for . . .

Mr. KNOWLES: I should like to hear from Mr. Haythorne on Clause 3 subclause (3). There are some other details that have been drawn to our attention by the Canadian Labour Congress, but this seems to be the point where we have an impasse.

The CHAIRMAN: If there are any questions that the members of the Committee would like to put to the witness perhaps they should go ahead. This will give Mr. Haythorne some time to prepare his answers.

Dr. HAYTHORNE: I would be quite happy, Mr. Chairman, to comment on clause 3 (3), because, as Mr. Andras indicated, I think that is the nub of their brief.

The CHAIRMAN: I see that Mr. Clermont has a question to ask.

Mr. CLERMONT: I was going to ask the same question as Mr. Knowles.

The CHAIRMAN: All right, Dr. Haythorne.

Dr. HAYTHORNE: Mr. Chairman, and members of the committee, I think the main consideration here is the fact that there are, on the statute books now, a number of laws which pertain to safety, particularly in the operation of transportation services coming within our federal jurisdiction. If we were starting from scratch—

The CHAIRMAN: If you will excuse me, Dr. Haythorne, do you have a copy of Mr. Nicholson's statement?

Dr. HAYTHORNE: Yes. If we were starting from scratch and there were no other pieces of legislation then I think there would not be anything like the problem which confronts us when we were trying to work out what is the most sensible way to proceed with over-all legislation in the safety field, at this juncture in time.

We have felt for some time that there were two ways of dealing with this in the presence of the existing legislation. One was to recognize that it was there and to exempt these activities altogether from our legislation. After extensive discussions on this matter with the departments concerned, in particular, transport in this case, we came to the conclusion that it would be best for us to recognize the existence in our legislation of the other ways in which safety is being taken care of now. At the same time—and this, I think, is the most important aspect of clause 3 (3) that enables action in the long run—if it is found that there are gaps, or that there are ways in which the existing legislation is not taking care of the safety requirement adequately, then this clause will permit action being taken by order in council. And as Mr. Nicholson has said in his letter, as he said before the Senate committee, and as we have said to the

members of this committee we feel that in this way we can be satisfied that those agencies of the government, which are now concerned with safety, will see under the existing legislation that the requirements are being carried out. But we always have under our legislation a fall-back position which enables action to be taken if it is found that the services that are being provided are not covering all aspects completely.

Now, you may say, "Well, what kind of action can we take to be sure that these gaps do not continue to exist?" Our inspectors, working in close co-operation with the other departments and the provincial agencies concerned, can report on the existence of gaps; and if we find that we are not in a position to take care of these adequately, then we can move in the direction that is printed under clause 3 (3), namely, the proposed action by order in council.

I think it is also very important for us to recognize that by including this clause we have not excluded safety with respect to the non-operational aspect of transportation services. If we had exemption of the transportation industry as a whole then there would have been a problem about the non-operational aspect of such services. In full co-operation with the departments concerned, we have included in this bill—and this we need to emphasize—our involvement in all of the non-operational aspects. In answer to Mr. Knowles' question at the second session—Mr. Knowles had asked me whether, under this bill, the Department of Labour would have jurisdiction over railway shops and airline terminal shops—I told him the answer was "Yes, we will", because under the bill we would automatically have control over the non-operational aspect.

It is just in the operational aspect where, as I said, the control has been vested, under other forms of legislation, with the agencies of the government responsible for these operations, and where we have statutes that permit and require safety precautions to be taken, that we have recognized the existence of these; but as I have said we have the fall-back provision, which we think is very important, of being able to take action if and when it is required.

Mr. KNOWLES: May I ask Dr. Haythorne a question? You said, Dr. Haythorne, that what we should do is to look at this in the light of existing legislation, but is it not true that it is precisely because, under the existing practices, certain people are not covered, that there is this fear that gaps will still exist?

We had before us Mr. Gibbons and his group the other day, and they told us of things on the trains themselves that are not covered despite the fact that the Departments of Transport and Health and Welfare have some jurisdiction. Then there is the problem of the people who operate trains at the moments in time when the trains are not actually running—at the terminals, and so on.

To pick up your own theme, you say that we have to draft legislation in the light of what we have now got. It is precisely because what we have now got does not fill certain gaps that we are apprehensive about this gap that is still left in clause 3 (3).

Dr. HAYTHORNE: I think part of the confusion may have arisen from the fact that the Board of Transport Commissioners, in looking at their field of operation, have not been absolutely sure about how far they can go and how far they cannot go.

Mr. KNOWLES: That is important.

Dr. HAYTHORNE: This is a very valid point; but our thought is that we have now clearly established the fact that we can take care of the non-operational aspect. After all, you must remember that the non-operational aspect involves about three quarters of the employees of these services if my memory is correct, and we can take care of the bulk of them under this legislation. If we find that there is not follow-up action being taken on operating people we can move in there, too.

Mr. KNOWLES: But my point is that that so-called follow-up action is now being missed. Why do you need to wait until there is further evidence of the gap? The evidence is already there.

Dr. HAYTHORNE: Well, I think this comes back to the steps which can be taken under the jurisdiction of the present act. The fact that the Board of Transport Commissioners is now inquiring into this whole situation is, I think an indication that they are moving forward. You may say that it has taken a long time to do it, but the fact is that insofar as they have the responsibility for doing it, and are moving ahead, our feeling is that if we start moving in, too, there is bound to be some real problems as between their jurisdiction and ours. Our thought was that it is easier and neater and helps to draw—which it does—a clear cut line between the operational and the non-operational. If they carry through—and we assume they will—the responsibility for safety that they have under their legislation, then this is taken care of.

I do not want to make any comment on the way in which these responsibilities have been carried out, or the timing, because there are many elements in this that I think we are not in a position here to go into without a good deal of exhaustive inquiry; but I do feel that by having under our legislation, if this is adopted, the authority to take action on all of the non-operational employees we can move ahead with a good deal of dispatch. A lot of work has been done, as perhaps the members of the committee know, on the safety and health precautions and the standards that are needed by the Department of Health and Welfare as a result of a pretty exhaustive inquiry that has been going on. Having got all that action behind us, we feel we should be in a position, when this legislation is adopted, and provided that these standards stand up—as we fully expect they will—to be able to move forward with dispatch.

Mr. MORRIS: May I ask a question?

The CHAIRMAN: Yes.

Mr. MORRIS: Dr. Haythorne, you said that you had not excluded the non-operational people from the act. What do you consider to be the non-operational people in the operation of trains, ships, or aircraft?

Dr. HAYTHORNE: The non-operational groups in these three fields of transportation would consist essentially of the people who are in the shop—crafts, for example; on the railways, maintenance of way groups; the people who are engaged in stations, particularly the yard services; the freight services; all the sorts of operations that are not directly associated with the actual manning and operating of trains.

Mr. MORRIS: Therefore, in effect, you have not excluded anybody who works aboard a train, boat, or aircraft?

Dr. HAYTHORNE: Well, the people who would be excluded, or, at least, who are not brought directly under it would be the operating people on the train—the engineers, the conductors, the trainmen, who actually operate the train; and the pilots and the people who operate the aircraft.

Mr. MORRIS: I have to get this straight because it is quite important. Are you saying that the cabin crews on aircraft are covered by the provisions of this legislation?

Dr. HAYTHORNE: No, they are not.

Mr. MORRIS: But they are not operating personnel.

Dr. HAYTHORNE: Mr. Currie, have we got to the stage where we have been able to define clearly, in the case of aircraft-operation, what categories would be included and what would not?

Mr. MORRIS has asked whether the cabin crews on an aircraft, for example, would be regarded as operating, or not. Certainly the pilot, the engineer and the people who actually do the operating would be included. In the determination on where you draw the line there are some shady edges, and we have to think this one through pretty carefully.

Mr. Currie might answer this one.

The CHAIRMAN: Mr. Andras, do you have a question before Mr. Currie answers?

Mr. ANDRAS: No; I am just being rude, I am afraid.

The CHAIRMAN: All right, Mr. Currie.

Mr. CURRIE: I am sorry, Mr. Chairman, I am operating today under some difficulty.

There are not yet any precise definitions or categories of individuals who may, or may not, be included. I think, however, that, within the general framework of our legislation and what we are trying to do; it would be fair to conclude that persons who are employed in an aircraft while it is aloft would be engaged in the operation of the aircraft.

Mr. MORRIS: That leads me to another question. Do you say that the dining room steward, the cook and the people who look after the sleeping accommodation on trains are covered by this bill?

Mr. CURRIE: I think there is a basic misconception here, Mr. Chairman. Nobody is excluded from this bill, period. This is the problem. You simply say that certain types of individuals, whose working involvement causes them to be employed in an aircraft, on a ship, or in the operation of a train, are not automatically subject to the provisions of this law, because the Railway Act, the Aeronautics Act, or the Shipping Act, may, and probably does, affect their working conditions in a variety of ways. But this provision says that if they do not do as good a job as the governor in council thinks they ought to be doing, with respect to the working environments of these people, then the Minister of Labour may, under this clause, recommend that certain standards of working conditions or other regulations, be applicable to those people. There is no exclusion whatever.

Mr. MORRIS: I well understand the permissive aspects of the legislation as set forth, but our position is that this should not be a permissive thing; that it

would be better for the legislation to spell out, in no uncertain terms, that this should be the overriding legislation that would cover the application of safety in all fields, whether it is in transportation or not. It is a rather peculiar set of circumstances that all unions who operate in this particular field where the exclusion is, in the fields of train service, steamship service and aircraft service, are all of one mind, and their mind is that this legislation should cover the operation of those three services and that there should not be a permissive exclusion in the act.

I realize that there is a problem of jurisdiction of departments under the laws under which they operate, but if you remember the presentation made by the Railway Brotherhood, they stated quite factually that they have been trying to get changes to legislation, or get things corrected, under the Railway Act since 1909. Now, if the permissive aspect of this legislation is going to be used to delay the proper implementation of safety practices, then the legislation will not carry out the objects for which it has been framed.

We are very concerned about the safety not only of people who work on trains, ships and aircraft, but also of the travelling public who are carried on these means of transportation, who should be able to feel that they are being given adequate protection when they are travelling.

It seems to me that if this subclause (3) is left in clause 3 then the permissive aspects of it will result in delays in the implementation of the very piece of legislation which the government has finally got around to framing, in order to bring some sense into the situation.

If there had been a clause in here such as the one in the Canada Labour Standards Code, which makes the legislation overriding, then we would have been quite happy with the total legislation in its present form. There are some things that we have small disagreements about, and they may be worked out; but this is so important, this question of delays that may be caused through jurisdiction because of the administration of the transportation service by other than the Department of Labour, that we believe that it would cause a real problem in the administration of the act, and will not give the result that we feel should come from a piece of legislation of this type.

The CHAIRMAN: Are there any members of the Committee who would like to ask questions of Mr. Morris? You will understand, Mr. Morris, that the witnesses are here today to answer the questions of the members. I know Mr. Clermont has asked—

Mr. CLERMONT: Could we have some explanation from the officials of the department regarding some remarks made by this brief?

The CHAIRMAN: I thought perhaps we could carry on with questions to Mr. Morris or to Mr. Andras, and then we could proceed with Dr. Haythorne.

Mr. CLERMONT: Yes; but if we asked the officials a question we could get their reactions. We have had the brief and we have read it. What we want is an explanation from these gentlemen. If I ask questions either of Mr. Currie or of—

The CHAIRMAN: I think that we should carry on with questions to the witnesses.

Mr. KNOWLES: I think Mr. Clermont should be allowed to question. We are dealing with the whole bill at the moment.

The CHAIRMAN: Mr. Clermont?

(Translation)

Mr. CLERMONT: Mr. Currie, what was the purpose of Bill S-35, as far the exclusion of the Yukon and the Northwest Territories, is concerned? Why did those who prepared or negotiated this bill provide for this exclusion?

(English)

Mr. CURRIE: The question, Mr. Chairman, relates to subclause 1 of Clause 3, to be found at the top of page 2. I think this is being misread Mr. Chairman, or being misunderstood. We do not exclude the application of the proposed legislation to the Yukon and Northwest Territories, it applies absolutely to any Federal work, undertaking, or business in either of the two territories.

The exclusion in the legislation is that it should not apply to local or private undertakings which are under the control and supervision of the ordinances. In this case, the situation is the same as it is in the provinces. The Parliament of Canada has conferred upon the two Councils of the territories power to pass ordinances regulating working conditions, and they have many such ordinances. We simply say that we do not wish to invade that. The exclusion relates only to local or private undertakings, not federal works, undertakings and businesses.

(Translation)

Mr. CLERMONT: You yourself, Mr. Currie, explained this last week or two weeks ago. I was here at the time. But you might enlarge on this because it might serve to enlighten us in regard to your brief, or make a case for it.

(English)

The CHAIRMAN: Is that a normal exclusion in other bills?

Mr. CURRIE: My understanding, Mr. Chairman, is that that is so. It is a common legal construction to make sure that the federal statute does not take away something which has been conferred upon the Councils by other federal statutes.

If I might just elaborate Mr. Chairman, in the two territories there are already ordinances dealing with such matters as electrical protection, fire prevention, mining safety, steam boaters, pressure vessels, public health, and things of this kind. Now these are there, and they apply to local works, undertakings and businesses, as, indeed, in a province they would be under the jurisdiction of official authorities.

Those things which the provinces may not regulate—federal works, undertakings or businesses—are the same kinds of things which the local Councils in the territories may not regulate, and we say that Bill No. S-35 will regulate those. It is analogous to what happens in the provinces.

(Translation)

Mr. CLERMONT: What Bill S-35 is supposed to cover in the other provinces, is under the jurisdiction of the federal government. The same thing should be covered in the Yukon and the Northwest Territories.

(English)

Mr. CURRIE: This is precisely what the bill says, sir.

Mr. CLERMONT: This is exactly it. This is the point. It is an argument to bring against the brief, because they claim that it should not be so.

Mr. CURRIE: I think, perhaps, there has been a misapprehension regarding this point.

Mr. ANDRAS: I do not know that it is entirely a misapprehension. We ran into a similar situation—Dr. Haythorne can correct me if I am wrong—when the Parliament of Canada enacted a statute dealing with vacations-with-pay in the federal domain. The question of the Northwest Territories and the Yukon came up, and, as I recall it, there was the same kind of exclusion. We took the matter up at that time with the government of the day—without any result, I might say—but we still felt that it was not reasonable to exclude these territories. That was before the Canada Labour Standards Code. It was under the old vacations-with-pay legislation. In any event, our concern is that we appreciate very well, Mr. Chairman, that the Northwest Territories and the Yukon are at present in a stage of evolution, that they have Councils, and that ultimately they will take on a very great measure of self-government. Nonetheless, we are concerned about our constituents, or working people generally, in those territories, and we are apprehensive that the omission of the Yukon and the Northwest Territories from any relevant federal legislation may do harm to the people who would otherwise be covered if the Parliament of Canada exercised its jurisdiction to the full. This is really what we are saying here.

Dr. HAYTHORNE: Well I think, Mr. Chairman I should like to make a comment. This came up, Mr. Andras, as some of the members of this Committee may recall during discussion of the Canada Labour (Standards) Code. There was confusion, I am afraid, and it is very easy to understand how this confusion may arise, because the wording has to be very carefully done so that we retain complete control over the operations of any federal activity in this part of Canada, as in any other part of Canada; there is no question about that, Mr. Andras. The only question, as Mr. Currie has explained, is that there are activities, that would normally come under provincial jurisdiction in the other parts of Canada, which, because these are still territories rather than provinces, are still under over-all federal control. But because we have established Councils, and because these Councils have passed bylaws, or taken action with respect to these sorts of activities, we felt it was only right and proper that that be recognized; and that is all we have done.

Mr. ANDRAS: I read this purely for information. There are hardrock mines, gold mines, up in the North. If the territories were provinces they would come within the provincial domain, unless they were uranium, for example. This would be a local work of a private nature. This is precisely what we are concerned about. There are mines up in the Yukon, for example—and I do not know how many people are employed there—which employ miners and people around the mines. Unless these councils referred to by Dr. Haythorne specifically legislate, or regulate, the conditions of safety around the mine, then these employees are left without the kind of protection that this bill would otherwise seek to provide for them.

Mr. CURRIE: Mr. Chairman, in the illustration brought forward, this particular industry now is subject to regulatory control under a department. I do

not know what the name of the present department is, but it used to be the Department of Mines and Technical Surveys. It has a mining inspection branch with a chief mining inspector here in Ottawa, and there are three or four mining inspectors resident in the territories, and their function is to enforce the mining ordinances locally.

Mr. ANDRAS: There is even more jurisdictional conflict than we were aware of.

Mr. CURRIE: Indeed, there is.

Mr. MORRIS: There is another question I would like to ask in regard to this particular case where you mentioned the misunderstanding with regard to the exclusion. What I would like to know is what is the effect of (i) of subclause (1) which says:

Any work, undertaking or business outside the exclusive legislative authority of provincial legislatures.

The Yukon and Northwest Territories are not provincial legislatures therefore they have no exclusive legislative authority. Now, what is the position with respect to the Yukon and Northwest Territories within the context of (i) of subclause (1)?

Dr. HAYTHORNE: Mr. Chairman, this would seem to be a clause to take care of certain things that may have been, shall we say, overlooked as I was saying, at one time this whole question was discussed.

Mr. CLERMONT: I asked a very short question, and I think that the Committee has got a lot of explanation. I asked only one question, and you will agree that it was not a bad question. You gentlemen have been talking about this for the last ten minutes, and I would like to ask another question.

The CHAIRMAN: Have you a question on the same matter, Mr. Régimbal?

Mr. RÉGIMBAL: I would like to come back to clause 3.

Mr. KNOWLES: I would like to ask a supplementary to it.

In this clause dealing with the Yukon and the Northwest Territories has the department thought about having the same kind of back-up provision that there is in clause 3 (3)? The concern is that there might be some people who do not get covered either under local ordinances or under the federal authority because of this exception. Had you thought of this kind of back-up that you have got in clause 3 (3) where the Governor in Council could decide that if people are missed we will cover them? I am talking about the Yukon and the Northwest Territories.

Mr. CURRIE: I think, Mr. Chairman, we should turn back a little further to page 1, the first part of subclause (1) of clause 3, and bear in mind that this act would apply—

—to and in respect of employment upon or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada—

This is the scope of the legislation. What appears after that really is explanatory, and is traditional; it is, as I understand it, the customary form of legal construc-

tion that these things take. But the total scope of this legislation, unless it is qualified as it is in subclause (2) of 3, applies to anything within the legislative authority of the Parliament of Canada. Now I think that the point which Mr. Knowles makes is that anything that is in this competence can be dealt with by the legislation, unless, as in clause 3 (3), there is some specific limitation.

Mr. KNOWLES: But right there in clause 1 there is not a period where you stop—

Mr. CURRIE: No; but you could, theoretically.

Mr. KNOWLES: The word "excluding" is there.

Mr. CURRIE: Well, the initiative would be with the local authority, or the territories have been given this authority by Parliament.

Mr. KNOWLES: But my point is: What about works that may be missed because local ordinances do not cover them? You now have taken them out of the federal authority by the exclusion at the end of clause 1.

Mr. CURRIE: Well, the initiative would be with the local authority, or the industry, or the employees affected, to urge the local council—

Mr. KNOWLES: This is where we are in clause 3 (3).

Dr. HAYTHORNE: Yes; I think that if you follow the practice of giving your local commissions or authorities the power to make ordinances it is pretty difficult to take it away. You give it to them, and if they are not carrying out their responsibilities adequately, then there are certain further steps, presumably, that can be taken by the departments concerned with northern affairs. The Department of Energy and Resources, as Mr. Currie has indicated, this department which is the Department of Mines, too, would be in a position to follow through in the normal course of their work, and see that where there are gaps action is taken by these local commissions. What would concern me is that we might be then accused of taking back what we have already given to them in terms of responsibility. Then I think you are in a worse situation than by making it clear that they have it; otherwise, two groups have it, and it is confusing—even more confusing than it is at the moment.

Mr. BARNETT: If I may comment on this point—

The CHAIRMAN: Well, Mr. Barnett, I was going to ask the committee if they wanted to carry on the discussion on this question.

Mr. CLERMONT: I think Mr. Chairman, that it would be proper to finish with the objection brought up by this brief.

The CHAIRMAN: I would like to have Mr. Davis' comment on whether this discussion is really in order.

Mr. CLERMONT: I do not think it is up to Mr. Davis to settle this. I think it is up to you.

The CHAIRMAN: He is the departmental solicitor, and I would like to have his advice on this matter.

Mr. GRAY: Mr. Chairman, if I may raise a point of order, I think that advice of this type should be sought from counsel to Parliament, and his associates,

rather than from a departmental official. If you are not prepared to make such a move yourself and you need advice I think you should ask it of Dr. Ollivier, or his associates.

Mr. KNOWLES: Let us not blow this up to that proportion.

Mr. GRAY: I am not suggesting that we should. I am just saying it on a point of order.

Mr. MACKASEY: I think that Mr. Clermont—

The CHAIRMAN: Is this on the same point of order, Mr. Mackasey?

Mr. MACKASEY: I think Mr. Clermont has an excellent point. We might as well exhaust the discussion on the Northwest Territories because it has dominated all our meetings so far. We should exhaust it, and everybody should satisfy themselves that they have the answers they want, then we can proceed to something else, and you can rule them out of order if they come back to it. If you cut it off now, they are going to come back to it anyway.

The CHAIRMAN: Are there any more questions on this matter?

Mr. BARNETT: May I make a comment, Mr. Chairman?

The CHAIRMAN: Even if you are not a member of the Committee you have the right to ask question, Mr. Barnett.

Mr. BARNETT: Mr. Chairman, the comment I would like to make on this point arises out of the fact—as I think I mentioned in an earlier meeting—that as a member of the Northern Affairs committee I did make a tour of the Arctic this summer and became very strongly aware of the increasing desire of the residents of the Northwest Territories to manage their own affairs in a manner parallel to the way the people of the provinces do.

On this point that has arisen about over-riding jurisdiction, I would like to mention something which has not been mentioned here, and that is that the power of initiation of legislation in the territorial councils rests with the commissioner who is, in effect, an agent of the Minister of Northern Affairs. It is my view that if there are existing gaps in safety regulations in such industries as mining, or others, in the Northwest Territories, pressure for the creation of that kind of coverage could come from two directions: (a) from the residents of the Territories themselves; and (b) from the Parliament and the Government of Canada through the Minister of Northern Affairs by direction to the Commissioner of the Northwest Territories or of the Yukon Council. In view of the temper of the people of the Northwest Territories, and of the provisions that are suggested in the Carruthers report, it does seem to me that this would not be psychologically the time for the Parliament of Canada to appear by this legislation to be robbing the people of the territories of provisions which are common to other pieces of legislation, and for which there is a growing insistence that they be expanded rather than subtracted.

Mr. GRAY: Mr. Chairman—

The CHAIRMAN: Mr. Gray, is this on the same point of order?

Mr. GRAY: Mr. Chairman, although I mentioned a point of order I did not want to stress it. As Mr. Knowles said it is not like the tensions—

The CHAIRMAN: If it is not on the point of order there are some other members who have expressed the wish to ask questions.

Mr. GRAY: Mr. Émard made an extensive comment on what was a supplementary question of some kind. I am not sure if Mr. Barnett—

The CHAIRMAN: I know that Mr. Émard has a question to ask—

(Translation)

Mr. ÉMARD: On a point of order, Mr. Chairman. Mr. Régimbal and I have given our names to put questions and we have been waiting all this time before being given the floor. You have recognized everybody except us. If you do not want to follow the agreed procedure, you should tell us and we will do like the others. In other words we will speak up at any time.

(English)

The CHAIRMAN: Mr. Émard, will you please accept some remarks from the chairman? I understand that your question is not on the same matter that was raised by Mr. Clermont. I thought—

(Translation)

Mr. ÉMARD: But Mr. Chairman, you cannot know what my question is going to be. I have not put it yet. Since 10.15, though, I should have been given an opportunity to speak.

(English)

The CHAIRMAN: You asked for the right to speak, Mr. Émard, when you did not know what question Mr. Clermont was going to ask.

Mr. HOWARD: Mr. Chairman, who raised the point of order, and what is it?

The CHAIRMAN: Mr. Gray raised a point of order.

Mr. HOWARD: Then leave him to it.

Mr. GRAY: I will accept your direction.

The CHAIRMAN: Are there any more questions on the Yukon and Northwest Territories? Are you going to speak on this question, Mr. Gray?

Mr. GRAY: All I wanted to suggest to the witnesses and to the officials is that we have to harmonize two policies, one, a commendable policy to improve the safety standards of those workers under Federal jurisdiction, and the other to encourage the people of the Northwest Territories to move towards self-government and provincial status. I gather that this legislation is worded in a way that attempts to do both, because if you have local structures set up or elected by the people themselves, you cannot expect them not to have anything to do in this area which is handled to some extent by the provinces in the rest of Canada. Am I right in saying this is what you are attempting to do?

The CHAIRMAN: Mr. Régimbal is it on this matter that you ask the right to speak?

Mr. RÉGIMBAL: I should like to get back to clause 3 (3).

The CHAIRMAN: That is why I want to know if we are still speaking on the same matter. Are you, Mr. Régimbal.

Mr. RÉGIMBAL: Dr. Haythorne, what is the difficulty about resolving the jurisdictional disputes which are apparently the main cause of delay in getting action on health and safety? What is wrong in giving authority to the Department of Labour, rather than doing it strictly by ricochet? It is going to get to you eventually, apparently, and it will only cause another delay by allowing the other Boards to say "well, let us wait and see what the Department of Labour is going to do". It is eventually going to end, apparently, by being done by order in council. Why not do it now?

Dr. HAYTHORNE: Well, Mr. Chairman, up to this point there has been a long history of action taken by government departments, and particularly by the Department of Transport, in the safety field. Even though certain questions have arisen in some areas about delays and so on, we should not leave the impression that there has not been a great deal of very important substantial work done in all of these three fields—flying, shipping and the operations of trains. There have been questions. Mr. Currie will be able to correct me if I am wrong here, because he has been having different discussions with the department and their officials on this matter but there has been some uncertainty about the extent to which the Department of Transport, and particularly the Board of Transport Commissioners, has had jurisdiction. This is not something that they are to be blamed for; it is a question of trying to get this thing properly sorted out.

I fully appreciate what Mr. Andras and Mr. Morris have said and what Mr. Gibbons said the last time, that this has given rise to some lengthy delays. It is because of these delays that we have this problems—as Mr. Andras himself said in his opening remark—of some concern about our jurisdictional responsibilities. Mr. Andras, if I remember, made the comment—

The CHAIRMAN: I am sorry, Dr. Haythorne, I have been reminded by the clerk to the Committee that we should have adjourned five minutes ago. This room was reserved for our Committee until 11.00 o'clock, and it is now 11.05.

Gentlemen, we still have this problem of whether the Committee wish to sit while the House is sitting, or are we going to have our meetings only in the morning?

I should imagine that the Committee would like to ask questions of our witnesses, Mr. Morris and Mr. Andras. Are there any further questions to be asked of Mr. Morris and Mr. Andras?

An hon. MEMBER: You mean we are allowed to ask them questions!

The CHAIRMAN: Does the Committee wish to have the witnesses come back—

Mr. CLERMONT: I think we should have another meeting with these gentlemen.

The CHAIRMAN: We should?

Mr. CLERMONT: That is my opinion. However, I am only one member of the group.

The CHAIRMAN: May I suggest Thursday at 9.30 a.m.?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: The meeting will adjourn until Thursday at 9.30 a.m.

APPENDIX 8

House of Commons Standing Committee
on Labour and Employment,
House of Commons,
Ottawa, Ontario.

Lodge #934.
Brotherhood of Railroad Trainmen,
c/o 867 Honore Mercier,
Chomedey, Laval, Quebec.
November 29th, 1966.

Dear Sirs,

This letter comes to you from the members of the above lodge, where our membership is made up of Dining Car Employees, on the Canadian Pacific Railway Co.

In our Efforts in the past to improve Health and Safety conditions for our members, we have found that we lie betwixt and between, it would seem that the National Dept's concerned are uninterested, and we are outside of Provincial jurisdiction.

It is therefore our earnest plea, that in your forthcoming consideration of Bill No. S-35 that we be included within the scope of the Bill, and we therefore ask that Art. No. 3 sub-section No. 3 be deleted in its entirety, in order to give it legislative authority to cover our members in train operations.

For the members,

Thomas O'Grady

APPENDIX 9

MINISTER OF LABOUR

Ottawa 4, Ontario

December 2, 1966

Mr. Georges-C. Lachance, M.P.
Chairman
Standing Committee on Labour and Employment
Room 261, West Block
House of Commons
Ottawa, Ontario

Dear Mr. Lachance,

I regret that I was not able to remain with the Committee yesterday to take part in the discussion of the Brief presented on behalf of the Canadian Railway Labour Executives' Association by Mr. A. R. Gibbons. Similar representations were made earlier this year to the Standing Committee of the Senate on Transportation and Communications and there was considerable discussion on the matters raised by the Association.

There was genuine interest in the question of providing facilities for the comfort and well-being of certain railway employees which has concerned them for such a long time. This situation has been aggravated by some uncertainty about which government department or agency had authority to establish enforceable requirements. When the Senate Committee was informed that the Board of Transport Commissioners was "prepared to entertain a petition from the Brotherhoods for regulating and making orders in this matter" (see page 162, Proceedings No. 9 of the Transport and Communications Committee, June 29, 1966), a clear course was opened to the Association for some definite action. Their Brief indicates that the Board of Transport Commissioners has now been seized of the matter.

Until that Board has dealt with the question, we will not know to what environmental conditions or to what employees of the railways and in what circumstances any such orders of the Board may apply. When this has been determined my Department would, if Bill S-35 is passed, consider what, if any, further requirements are indicated and in consequence how the general regulations contemplated under Clause 7 would apply to the non-operational work places and employments.

We would also give consideration to any additional action that might appear necessary, i.e. a submission to the Governor-in-Council as may be made under Clause 3(3). I wish to reaffirm that the sub-Clause does not effect any outright exclusion of these activities from the application of the safety code. It is rather a limitation on the general application of the legislation with respect to the operational aspects of these transportation systems.

There can be no doubt that under the provisions of either the Railway Act or the Canada Labour (Safety) Code, if passed, there is or will be authority to

establish and enforce reasonable standards of safety and well-being for all railway employees. Therefore, in view of such general or universal coverage, it would seem to me both unnecessary and impractical to attempt to define categories of workers or the conditions to which one or the other Act would apply. The gaps that now exist in the regulation of work places and whatever conditions may not be dealt with by the Board of Transport Commissioners could be taken up under our proposed legislation. Definitions have a tendency to be restrictive and might make the Code less flexible and therefore less responsive to changing conditions.

With reference to the suggestion that Clause 3(3) might be amended by deleting the phrase *in connection with*, I do not believe this would be a desirable change. It will be noted that these words appear elsewhere in this Clause (see page 1, line 24; page 2, line 7 and, on page 3, lines 11 and 34). The same phrase appears in a number of later clauses in the Bill. This standard construction is to be found in a number of other statutes administered by this Department such as those cited in Clause 30. It is of some importance that there be consistency in these several statutes.

I understand that it was suggested that this phrasing be made to conform to that used in a provision in the Railway Act but I would point out that this sub-Clause includes the other two principal forms of transport, namely, ships and aircraft, and it would not be desirable to make this distinction. Further, I would like to draw your attention to the same wording that is to be found in Section 290(1) (1) of the Railway Act, to which Mr. Gibbons referred, as follows:

"(1)—generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines by the company on or *in connection with* the railway."

In view of all these considerations, I believe that it would be inadvisable to amend this sub-Clause and I hope that the Committee will concur, especially in the knowledge that such problems as that presented by the Canadian Railway Labour Executives' Association can be taken care of as I have outlined in this letter.

Yours sincerely,

John R. Nicholson

APPENDIX 10

A submission in respect of Bill S-35

AN ACT RESPECTING THE PREVENTION OF EMPLOYMENT INJURY
IN FEDERAL WORKS, UNDERTAKINGS AND BUSINESSES

Prepared for presentation to the
STANDING COMMITTEE ON LABOUR AND EMPLOYMENT OF THE
HOUSE OF COMMONS

(By J. Morris
of the Canadian Labour Congress)

OTTAWA, ONTARIO.
DECEMBER 6, 1966.

Mr. Chairman and Members of the Committee:

1. The Canadian Labour Congress welcomes this opportunity to appear before the Committee on Labour and Employment to submit its views on this most important proposed addition to the laws of Canada. The Honourable Mr. Nicholson, Minister of Labour, has stated that the purpose of the legislation is to provide for the protection of employees. This is a laudable purpose and we believe that the proposed legislation is generally sound in its aims and that many of its provisions will be effective.

2. The interest of the Canadian Labour Congress in the subject of safety ranges as widely as the geographic and occupational distribution of the labour force. As a trade union centre consisting of affiliated and chartered unions and other bodies such as district labour councils and provincial federations of labour, the main concern of the Congress is the economic and social well-being of its members and their families. The fact that the Canadian Labour Congress groups together upwards of one million three hundred thousand union members and their dependants emphasizes the breadth of our interest in this legislation. We constitute, in fact a considerable proportion of the total population of Canada.

3. The Canadian Labour Congress is of relatively recent origin, having been founded in 1956, but there is a continuity of concern about safety and health which can be traced through the history of its two predecessor organizations, the Trades and Labour Congress of Canada and the Canadian Congress of Labour. Perhaps not as well known is the fact that the present Congress has adopted far-reaching policies regarding occupational health and safety and, together with its constituent bodies, is engaged in a continuing education, legislative and information program on this subject.

4. The program emphasizes the tripartite nature of responsibility for safety. The three elements are government, management and workers. Our appearance before this Committee does not call for us to express our views regarding the respective roles of management and workers except to point out that the official policy position of the Canadian Labour Congress is that it stands ready to co-operate to the fullest extent of its resources with all concerned so that

hazards to life and limb may be eliminated. We are committed to full recognition of our individual and collective concern, and of our individual and collective responsibility.

5. For the working men and women employed in this industrial society, a safe working environment is necessary for survival. Surely we owe them the opportunity to reach retirement age sound in mind and body, without loss of limb or any faculties as a result of occupational disease or injury.

6. The program of the Congress, directed toward appropriate action by all parties concerned, can be fully effective only if there is a firm foundation of law upon which our activities can be based. We believe that the passage of health and safety laws by the provinces, together with such provisions as exist in various federal laws, are gradually building this foundation. But we need to redouble our efforts, and speed them up if those most concerned are to benefit.

7. We believe that those who are most concerned are those we represent either directly or otherwise. When everything has been said with respect to the cost of enacting and enforcing safety laws, and with respect to the costs to industry that are involved, there still remains the emphasis that was put so eloquently by Ontario Justice W. D. Roach in his report on an inquiry conducted into the Ontario Workmen's Compensation Act in 1950. He said:

"If a workman is maimed in industry the employer has to pay the compensation, but no monetary allowance can ever adequately compensate a workman who has to go through the balance of his life minus an eye, or a hand..."

8. We know that members of this Committee are well aware of the toll that is taken by our industrial process every day, so we will not labour the point. Suffice it to say that we share, deeply and sincerely, the concern of this Committee that the legislation now before us, when enacted, will do the job that it purports to accomplish.

Background of Need for Legislation

9. This Bill was introduced in the Senate and prior to its passage there on June 30, 1966, was the subject of hearings before the Standing Committee on Transport and Communications. Much of what was said before the Committee on Transport and Communications is worth reiterating at this point.

10. One fact that emerged with considerable clarity is that considerable confusion has existed for years over legislative jurisdiction about safety in respect of federal undertakings. Submissions were made to the Senate Committee on behalf of the railway brotherhoods which confirm the experience of our unions that health and safety matters have been an exercise in "buck-passing" between several departments of government. This has been well documented, in respect of the matters with which the railway brotherhoods have been concerned, in their submission to the Senate Committee entitled A Brief on the Subject Matter of Bill S-35, presented to the Standing Committee of the Senate on Transport and Communications by the Canadian Railway Labour Executives' Association, dated June 15, 1966.

11. The experience of the railway brotherhoods indicates that while, for example, the Department of National Health and Welfare recognized a responsi-

bility regarding health and sanitation it could only issue *guide-lines* which have had no regulatory effect. The exchange of correspondence between the railway brotherhoods and successive Ministers of the Crown representing the Department of Transport, the Department of National Health and Welfare and the Department of Labour has been going on, quite literally, for years and years. The railway brotherhoods, quite naturally, have expressed concern about the ability of the Bill now before you to put right this situation, and have drawn attention in particular to sub-section 3 of Article 3 which has the effect of excluding railway train operations except as they are brought within the scope of the law by order of the Governor-in-Council.

12. A further example of difficulties faced by another of our affiliates may be referred to. This affiliate is the Canadian Air Line Flight Attendants' Association. It has attempted, through representations to the Department of Transport, to ensure that regulations would be introduced and enforced to fully safeguard the life and limb of its members who are generally referred to as "cabin crew". It is the view of the Association that the Department of Transport has never exercised its jurisdiction over normal employee safety. The Association reports many cases of injuries to its members because of lack of protective measures and equipment during turbulence, at landing and take-off times, etc. The Canadian Labour Congress has reviewed a submission prepared by officials of this Association and by Executive Council action has instructed the officers of the Congress, as a first step, to make representations to the Minister of Transport. Congress officers have initiated action in this direction.

13. The Association anticipated that the long heralded federal legislation which is now before you would include the kind of provision which would make it mandatory for the Department of Transport to promulgate and apply adequate regulations. The Canadian Air Line Flight Attendants' Association shares our concern that the exclusion in sub-section (3) of Article 3 of "employment upon or in connection with the operation of ships, trains or aircraft" in favour of action by Order-in-Council leaves its membership without a safety program as envisaged in the Bill under subsection (1) of this article.

14. On this matter of confused jurisdiction perhaps the most eloquent testimony that can be offered is that of the Minister of Labour himself, the Honourable John R. Nicholson, when he appeared before the Senate Committee already mentioned. By the time this submission is presented to the Honourable Members of this Committee the Minister of Labour may already have stated his views to you. However, it will do no harm to include in this submission some of the comments made by him.

15. It is worth noting, at the outset, that the Bill now before you, short-titled *The Canada Labour (Safety) Code* is looked upon as a companion measure to the *Canada Labour (Standards) Code* which was approved by Parliament last year. In fact, Article 30 of Bill S-35 provides that the Statute Revision Commission is to consolidate as one Act under a *Canada Labour Code* the two above-mentioned measures and also the *Female Employees Equal Pay Act*, the *Canada Fair Employment Practices Act*, and the *Industrial Relations and Disputes Investigation Act*. The Congress welcomes this attempt to codify such legislation.

16. The Congress has been aware that in Canada industrial safety legislation is almost entirely provincial. We have known that the Federal Department of

Labour does not administer any legislation having a direct bearing on safety but that there are a number of federal statutes such as the *Railway Act*, the *Canada Shipping Act*, and the *Aeronautics Act*, that include provisions intended to ensure the safety of the public and of the employees. We welcome the comment of the Minister of Labour that there has been a gap in our legislation with respect to employee safety in federal undertakings and that this legislation is designed to make sure that this gap is filled.

17. It is good to know that this gap is recognized. It is encouraging also to note that the Minister of Labour and his associates in the Department have stated, in effect, that if it appears after full exploration that employees are not fully protected under existing laws, such as the *Railway Act*, the *Canada Shipping Act*, the *Aeronautics Act*, and others, sub-section 3 of Article 3 of Bill S-35 would become operative and regulations could be issued to correct the situation. To put the matter in the Minister's own words, "With this legislation we will not be able to pass the buck any longer".

18. With regard to the respective jurisdictions of the Federal Government and of the provinces it is welcome news to know that Bill S-35 has been the subject of discussion and consultation between representatives of the Department of Labour and appropriate provincial authorities, and that the majority of the provinces have urged enactment of this legislation. Furthermore, the Minister has affirmed that the intention is to engage in continuous consultation and an exchange of ideas and experiences among the various authorities.

19. The Congress has already referred in this brief to its conviction that health and safety matters are an individual and collective responsibility. If we are to interpret the intent of Bill S-35 as revealed in its various sections and, more particularly, by the testimony of the Minister of Labour and his associates from the Department of Labour, we are to enter a period in which the Department will have something of a "watch-dog" function with respect to the health and safety of employees in federal undertakings. This is an excellent goal; our concern is whether this complex legislation will attain the goal.

Bill S-35

20. We note that prior to passage by the Senate a small number of changes were made in the Bill. Generally these have served to better define the area of applicability of the Act. The Bill as it stands cannot but lead to the conclusion that its value will depend in very large measure on those who have the responsibility of administering it. This will be true, we believe, initially in respect of the regulations that are promulgated under the Bill and also on the degree of effective enforcement of the Act and the regulations.

21. It is not the intention of the Congress to attempt any detailed proposals with respect to the text of the Bill but rather to confine itself to observations which we trust will be given full consideration by the Committee and by the law officers responsible for the drafting of the Bill.

22. First of all, we would have welcomed a Bill which had as part of its provisions a clause similar to section 4, sub-section 1 of the *Canada Labour (Standards) Code* which reads as follows:

"This Act applies notwithstanding any other law or any custom, contract or arrangement, whether made before or after the commence-

ment of this Act, but nothing in this Act shall be construed as affecting any rights or benefits of an employee under any law, custom, contract or arrangement that are most favourable to him than his rights or benefits under this Act."

23. We are familiar with the reasoning behind Bill S-35 in its present form, i.e. that the wording as it stands was arrived at only after weeks of discussion and with regard to the respective jurisdictions of such departments as Transport and National Health and Welfare. But we cannot help reiterating our misgivings, as others have done in respect of this Bill, regarding sub-section 3 of Article 3 which has the effect of excluding employment upon or in connection with the operation of ships, trains or aircraft except as the Governor-in-Council may by order otherwise provide. The Congress shares the viewpoint of those who question why, at the point of passage of this legislation the areas of jurisdiction could not be defined and clarified for all time.

24. In effect, what we are being asked to accept is a bill which in sub-section 1 of Article 3 provides for a very broad coverage indeed and then diminishes this coverage in the sub-section 3 already referred to. As this Committee will have gathered by now, the Canadian Labour Congress is deeply concerned about these particular provisions. At one and the same moment we stand on the threshold of a major breakthrough with legislation intended to overcome the discrepancies and evils of the past and simultaneously are confronted with a provision which seems to make possible the perpetuation of those discrepancies and evils. Sub-section 3 of Article 3 could perhaps be tolerated if we lived in a country much smaller than ours, one which did not have the myriad of industrial and transportation processes, and the occupational classifications which are an integral part of them.

25. The members we represent have long suffered the consequences of unclear jurisdictional lines, not only as between federal departments, but between federal, provincial and municipal jurisdictions. Practically within a stone's throw of the building in which we meet there have been accidents which could have been avoided had the line of responsibility for enforcement been drawn clearly. On each of these occasions we have been assured that the absence of clearly drawn lines of jurisdiction and the lack of communication between the various authorities which is an inevitable consequence of those confused jurisdictional lines, would be overcome. We have been told that henceforth there would be continuous and adequate consultation so that no worker would be maimed and no worker lose his life because each authority had assumed that one of the other two was acting as the enforcer of legislation. Such a situation cannot be tolerated any longer. Jurisdiction should be clarified now and the unwieldy procedures contemplated in sub-section 3 of Article 3 avoided by deleting the sub-section.

26. We take exception, also, to the exclusion of "any work, undertaking or business of a local or private nature in the Yukon Territory or Northwest Territories". We seek assurances that those who work in these important geographic areas will be fully protected in accordance with the intent of this Bill. If this Committee, after reviewing the situation, is not satisfied that such protection is to be available then the law as now written should be revised.

27. This is perhaps as appropriate a place as any to advance the view of the Congress that steps should be taken immediately to establish committees of a consultative or advisory nature as mentioned in Article 8 of this Bill. We propose that the word "may" in the first line of Article 8 be changed to the word "shall" and that the word "equally" be inserted after the word "are" at the end of line 10, to provide for full representation from both employers and employees. It is the considered view of the Congress that the establishment of committees such as those outlined in the legislation is long overdue. They will undoubtedly serve many useful purposes not least of which is that of reducing the time that elapses between the discovery that a particular department is not in fact exercising its jurisdiction with regard to safety, or does not in fact have such jurisdiction. The great danger inherent in sub-section 3 of Article 3 is that hazardous conditions that could result in injury or death may continue to exist indefinitely. The time lag between the discovery of hazards and the steps that must be taken to eliminate them can only be reduced under the legislation as proposed if the lines of communication between those affected and those who must take action are kept open. With respect, we suggest that for most of the undertakings contemplated under Bill S-35 the network of trade union organization that is spread from coast to coast offers ready made machinery whose employment is vital to the successful enforcement of this proposed law.

28. In Article 4, sub-section 2 it is proposed that:

"Every person operating or carrying on a federal work, undertaking or business shall adopt and carry out reasonable procedures and techniques designed or intended to prevent *or reduce the risk of* employment injury in the operation or carrying on of the federal work, undertaking or business."

Such procedures and techniques should be designed or intended specifically to "prevent". We therefore propose that the underlined words "or reduce the risk of" be deleted from this sub-section.

29. Articles 10 and 11 are concerned with safety officers whose responsibility it would presumably be to enforce or recommend enforcement of the provisions of Bill S-35 when enacted. We note with interest, and some concern, the provision in Article 11 which would enable the Minister to enter into an agreement with a province or any provincial body with respect to the terms and conditions under which a person employed by the province or provincial body might act as a safety officer. Our concern springs from the fact that there seems to be general consensus that some provinces or provincial bodies dealing with safety are already seriously understaffed in respect of the number and the qualifications of those who serve as inspectors. It prompts us to emphasize the importance of administering Bill S-35 with a full complement of highly qualified and well trained safety officers.

30. If this Bill receives approval it will be effective only to the extent that it is firmly and effectively applied. For this we need an inspection force informed as to its responsibility, enjoying adequate pay and security of tenure on the job, and confident that when exercising its responsibilities those under whom it works will give support in "calling the shot". Furthermore, the corps of safety officers should be in such numbers as to adequately cover all undertakings and establishments coming under the Act. Any agreement entered into between the

Minister and the other bodies mentioned should make provision for an additional number of qualified safety officers if necessary, and such an agreement should not contemplate the enforcement of the proposed law by those who, from our observation, are already greatly overworked and quite often inadequately trained and equipped for this important assignment.

31. Section 12 will permit the Minister to undertake research into the causes of and the means of preventing injury. This is a long neglected area of endeavour and it is encouraging to note that research has been singled out for special emphasis. We recommend that the permissive word "may" in the first line of this section should be changed to the word "shall".

32. Section 13 makes provision for programs designed to reduce or prevent injury. Here again, we propose that the word "may" on the first line become "shall" and the words "reduce or" be deleted in the interests of a positive approach. May we also reiterate the point made above that the hundreds of locals with their thousands of officers in the trade union movement provide a means of communication and continuous liaison which can and should be utilized in the accomplishment of the purpose of this Article.

33. In Article 14 which is concerned with *Safety Services*, exceedingly wide powers are given to safety officers in sub-section (d) of section 2 in respect of employees and, presumably their unions. Our concern here is that such a provision may open the door to an unwarranted invasion of privacy in respect of both the employee in relation to fellow employees and in respect of the records of union safety committees.

34. Article 19 makes provision that in the event that a direction given by a safety officer is considered unjustified, the employer or person charged may appeal to the regional safety officer. Although not laid down in the procedure, it is assumed that the regional safety office does not have the final word and recourse may be had to the Minister of the Department concerned.

Conclusion

35. It is the view of the Congress that the legislative and educational processes are inextricably intertwined. At its best the legislative process is in fact an educational and informational experience which should be shared not only by the legislators but by all citizens in our society. In the legislation under review it would appear to us that a special case can be made to make the most of the interdependence of these two processes.

36. The introduction of this Bill in the Senate and in the House of Commons has already brought in its train extensive information and the Bill has undoubtedly been studied by many organizations and individuals in addition to those represented here to-day by us. May we make a plea that this process continue after the enactment of the Bill? Using all the resources of government, including especially the personnel charged with the administration of the Act, there should be launched an all-embracing program designed to bring to the attention of every working man and woman concerned, using whatever methods, techniques and languages that may be needed, full and detailed information regarding rights and responsibilities under the Act. Similarly, a program designed to acquaint all those who operate federal works, undertakings etc., should be

mounted to the end that no employer, regardless of size or condition, will be able to say that he was without knowledge of the law and the regulations that will be promulgated under it.

37. These proposals will undoubtedly involve all concerned, i.e. government, employer and employee in a considerable expenditure of money, time and effort. But the stakes are worth it, for they involve no less a precious possession than life itself.

Ottawa, Canada,
December 6, 1966.

HOUSE OF COMMONS
First Session—Twenty-seventh Parliament
1966

STANDING COMMITTEE
ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 9

THURSDAY, DECEMBER 8th, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in
federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice-President.

From the Canadian Trucking Associations Inc.: Mr. John Magee, General Manager.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and Messrs.

Barnett,
Clermont,
Duquet,
Émard,
Fulton,
Gray,
Guay,
Hymmen,

Johnston,
Knowles,
MacInnis (*Cape Breton
South*),
Mackasey,
McCleave,
McKinley,
McNulty,

Muir (*Cape Breton North
and Victoria*),
Racine,
Régimbal,
Reid,
Ricard,
Skoreyko,
Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, December 8, 1966.

(10)

The Standing Committee on Labour and Employment met this day at 9.45 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Duquet, Faulkner, Gray, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, McNulty, Muir (*Cape Breton North and Victoria*), Reid, Ricard, Tardif (17).

In attendance: From the Department of Labour: Dr. George V. Haythorne, Deputy Minister, Mr. Jean Pierre Després, Assistant Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. W. B. Davis, Departmental Solicitor;

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice President;

From the Canadian Trucking Associations Inc.: Mr. John Magee, General Manager.

The Chairman reminded the committee that Mr. Morris had returned to answer any further questions on his brief. After questioning, the Chairman thanked Mr. Morris and he was excused.

The Committee *agreed* to hear Mr. Magee who made an oral presentation and after questioning, the Chairman and members of the committee thanked him. He was excused.

The Committee then went to a clause by clause examination of the bill. At the suggestion of Mr. Mackasey and other members of the committee it was *agreed* that the Departmental Officials be called to the table in order to aid the committee in its examination.

Agreed,—That clause 1 stand.

Agreed,—That clause 2 carry.

On clause 3, Mr. Barnett moved, seconded by Mr. Knowles,—That clause 3 of Bill S-35 be amended by deleting in line 22 thereof the words, "Subject to" and substituting therefor the word, "notwithstanding",
And that sub-clause 3 of clause 3 of Bill S-35 be amended by deleting the words, "applies to or" and substituting therefor the words, "affects the provisions of any other Act or regulations thereunder".

It was *agreed* that clause 3 and the amendment moved by Mr. Barnett be allowed to stand.

Agreed,—That clause 4 stand.

Agreed,—That clauses 5 and 6 carry.

On motion of Mr. McCleave, seconded by Mr. Reid, it was

Agreed,—That clause 7(1)(f) be amended by inserting a comma after the word "Storage" on line 19 and that the word "and " at the beginning of line 20 be deleted.

Agreed,—That clause 7, as amended, stand.

Agreed,—That clauses 8 and 9 carry.

On motion of Mr. Ricard, seconded by Mr. Reid,

Agreed,—That clause 10 in the French copy of the bill be corrected by deleting the figure "(1)" indicating a subclause.

Agreed,—That clause 10 as amended, carry.

Agreed,—That clauses 11 to 13 carry.

At 11.10 o'clock a.m., the consideration of Bill S-35 clause by clause continuing, the Chairman adjourned the committee to 9.30 o'clock a.m. Tuesday, December 13, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, December 8, 1966.

● (9.43 a.m.)

The CHAIRMAN: Gentleman, I will call the meeting to order.

I have received suggestions from some members and I have discussed the arrangement of the Committee with some officials of the committees branch. We have been told that we should try to conduct the sittings of the Committee on the usual basis of having one witness who would sit in the witness' chair to answer any questions that members might ask, one witness at a time. If there are other questions asked of another witness, we would ask him, to sit in the witness' chair.

I presume you still have questions to ask Mr. Morris from the C.L.C. and if you would indicate that you want to ask questions, I will make a note of it.

Mr. Morris, do you have any further comments to make?

Mr. MORRIS: No.

The CHAIRMAN: Gentlemen, do you have any further questions to ask Mr. Morris?

The witness can always be recalled at the request of the Committee, so whatever questions you might like to ask of either Mr. Morris, Dr. Haythorne, Mr. Currie or any of the other witnesses—

Mr. KNOWLES: May I put it this way, Mr. Chairman. Has Mr. Morris anything more he would like to say on clause 3(3) in the light of the discussions which took place the other day?

The CHAIRMAN: Mr. Knowles, I asked the same question of Mr. Morris a moment ago. I do not think Mr. Morris has any further comments, but if he has he can proceed.

Mr. J. MORRIS (*Executive Vice-President, Canadian Labour Congress*): No, I think we made our position clear with respect to clause 3(3) on Tuesday. We have not read into the bill the position as set forth by the government. We think it needs more clarification. Our position is that because this is an act of such importance to people who work, not only in the other fields which are supervised by the federal Labour Department, but in the fields of transportation as well, that there should be an overriding consideration which would make the provisions of this bill applicable where no other provisions were laid down by other departments. This is really the major question we have with respect to this piece of legislation. As we set out in our brief, we are quite happy with the legislation in its present form if there were a clarification of subclause 3 of clause 3 along the lines set out in our objections.

The CHAIRMAN: Are there any more questions, gentlemen?

Mr. KNOWLES: I think we agree with Mr. Morris.

Mr. MACKASEY: I agree with Mr. Morris. The ideal situation, certainly, would be if everything pertaining to safety in the federal field came under the Department of Labour and, particularly, Bill No. S-35. I think you will appreciate what we are up against. We are up against entrenched interests of other departments in the field of safety.

We also have particular problems in the Department of National Health and Welfare pertaining to the drug industry, the pharmaceutical industry, isotopes and the rest of it. I think, Mr. Morris, one encouraging feature coming out of your representations and those of other groups is that, at least, now if the safety regulations coming under the three other acts, the Aeronautics Act and other acts, are not enforced unions and individuals and employees would have a right to appeal to the Department of Labour and point out the fact that the other groups are not enforcing the law and in that case, the Minister of Labour then can, through the cabinet, demand, and I think in the Senate hearings he emphasized that these areas that are being neglected would be turned over to the Department of Labour through the powers of this particular bill for enforcement.

Mr. MORRIS: I understand that and believe me I am well aware of jurisdictional problems and jurisdictional feelings. We have a lot of those problems ourselves. The thing that bothers us about this particular aspect is the time element that is involved in the investigation before the complaint is laid, with the Labour Department, and the Labour Department making representations and getting authority to apply the provisions of the act. This may take a length of time which really we cannot afford to take. This is the problem we have in reconciling our thinking with regard to the legislation in its present form. I would say that when you find a formula for licking this jurisdictional problem, let us have it because we could use one ourselves.

Mr. MACKASEY: I think on that happy note, we should end this right here and now.

The CHAIRMAN: Thank you very much, Mr. Morris. Would you be good enough to remain with us; the Committee may have other questions to ask you today.

Gentlemen, I received a telephone call from Mr. John Magee, General Manager of the Canadian Trucking Association Inc., who expressed a wish to appear before this Committee for a brief comment on the bill. Mind you, at our first meeting it was mentioned that the Canadian Trucking Association Inc. might want to appear. Is it the wish of the Committee to hear Mr. Magee immediately? Mr. Magee is here this morning. Is it agreed?

Some hon. MEMBERS: Agreed.

Mr. MACKASEY: Is this the last witness we have, Mr. Chairman?

The CHAIRMAN: This will be the last witness unless members of the Committee have some further questions to ask of the officers of the department.

Mr. MACKASEY: Could I ask it in another way? Is it the last brief from outside interests?

The CHAIRMAN: Yes. Mr. Magee.

Mr. John MAGEE (*General Manager, Canadian Trucking Association Inc.*): Mr. Chairman, members of the Committee, I appreciate very much your willingness to hear the Canadian Trucking Association which has a brief submission to make to you on the bill. I apologize for not having copies of this brief with me, but it is going to be very short; it is on one particular aspect of the bill and the relationship of the trucking industry to this legislation.

I might, first of all, explain to members of the Committee, who may not be aware, that the Canadian Trucking Association is a national federation of all the provincial trucking associations in Canada representing the owners of some 7,000 trucking firms. It is at the direction of these associations, through our national board of directors, that I make this submission.

The subject of safety is of paramount concern to Canada's trucking industry. For our operations we rent, and pay a full and fair share for that rental, a roadbed consisting of city streets and highways used by the general public. We are, at all times, conscious of our contact with the public and are constantly addressing our attention to any measure that will strengthen and improve the trucking industry's safety record. We welcome any legislation that represents a genuine attempt to uphold and improve safety performance in the trucking industry. We believe that Bill No. S-35 is such legislation.

However, the trucking industry is subject already to an infinite variety of safety legislation and regulation. I will not impose upon the Committee by reviewing the situation, province by province, nor even the entire situation as to legislation and regulations in any one province, but I will pick one province, Ontario, simply as an example of the point we make.

Here are some of the statutes in Ontario concerned with matters dealt with in Bill No. S-35. The Municipal Act which provides authority for building codes; the Elevator and Lift Act providing for the safety of elevators; the Boiler and Pressure Vessel Act providing for the safety of steam boilers; the Highway Traffic Act providing for safety on the highways; the Gasoline Handling Act providing for safety in the handling of gasoline; the Factory, Shop and Office Building Act providing for working conditions within factories, shops and offices; the Public Commercial Vehicles Act providing for the regulation of motor carriers and the Workmen's Compensation Act providing, among other things, for industrial safety. In addition to such provincial statutes there are effective controls imposed by such institutions as insurance companies, and mortgage companies engaged in financing buildings who insist that the provincial statutes be conformed with and by various insurance institutions who frequently go beyond the requirements of provincial laws in establishing procedures for the handling of dangerous materials.

The same kind of statutory and institutional control in the field of industrial safety exists, more or less, for all provinces, depending upon the extent of their industrial development. The provincial governments have occupied the field of industrial safety. Trucking firms, whether interprovincial, international or intra-provincial in character have not challenged the right of the provincial governments to do so. Although there are approximately 1,000 extra provincial trucking firms which cross provincial borders and the international boundary, most of these firms remain essentially provincial in the nature of their operations and services.

Within the provincial regulatory environment, a typical trucking firm starts out as a firm providing service within a municipality or a county or between urban centres in a province. As its business develops, the firm extends its operations and at some point in its development, services may be provided that cross provincial boundaries.

One of the obvious difficulties in regulation of extraprovincial motor transport arises from the split jurisdiction over the trucking industry under the British North America Act. The Winner case of 1954, in the decision rendered by the Judicial Committee of the Privy Council, showed clearly that trucking cannot be divided neatly into firms that are intraprovincial carriers and firms that are interprovincial carriers.

We suggest to the Committee that common sense demands that we recognize the provincial character of the industry and yet the law indicates that whenever a firm is involved in interprovincial traffic—this may be only 1 or 2 per cent of the total business of this particular trucking firm—if it is involved in interprovincial traffic on a regular basis it falls under federal jurisdiction no matter what the relative importance may be of its intraprovincial services.

With this background of provincial orientation, it might have been supposed that the trucking industry would be the least likely of all industries under federal jurisdiction to be exposed to a potential new layer of safety regulation and yet we find in the bill, in clause 3 subclause (3) of which you have heard, that the trucking industry is the only industry omitted from the exception as follows:

Notwithstanding subsections (1) and (2) and except of the Governor in Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft.

Our respectful submission to the Committee is that because of the occupancy of the field of safety in all provinces and the application of these safety laws and regulations to the trucking industry, it is unnecessary to cover trucking in this legislation.

Throughout a period of more than 30 years, from the birth of the trucking industry, safety requirements at the provincial level have been developed for the industry and, in addition, the industry has shown a keen disposition towards self-policing in this all important matter. Our respectful submission to the Committee is that because of the occupancy of the field in all provinces, trucking should be exempted from the legislation.

If the Committee is of the view that the federal Labour Department must have the ability to cover a gap, if one is found, with respect to safety regulation of the trucking industry, then we respectfully suggest that trucking should be at least, included in the exception clause and that the words "ships, trains or aircraft" should be enlarged to include our industry. This course of action would make it possible for the Governor in Council, on the recommendation of the Labour Department, to make a regulation in respect of trucking.

That, Mr. Chairman, is our submission.

The CHAIRMAN: Thank you, Mr. Magee.

Mr. McCLEAVE: You had the provisions of the bill before you when you were invited to attend the Senate Committee hearings and yet declined to go there. I wonder why you had changed your mind, Mr. Magee?

Mr. MAGEE: We did not decline, Mr. McCleave; we, through an error which was my responsibility, and I believe it is the first time in 19 years that I have missed a hearing of a Committee at which I should have been present, the trucking industry did not make a submission to the Senate Committee before the hearings terminated. That is the exact situation.

Mr. McCLEAVE: I do not want to inquire into what probably was a mistake, but, Mr. Magee, since we are concerned with safety provisions in the trucking industry from one end of Canada to another, is it true that there are safety provisions set by the provincial governments from one end of Canada to the other, or do the standards vary provincially?

Mr. MAGEE: They vary.

Mr. McCLEAVE: Are there vacuums in any provinces where they have not dealt with safety provisions? Apparently Ontario has nine or ten acts which might apply.

Mr. MAGEE: Quebec has a great number, too. I meant to bring the actual regulations in a packet to display because there are a large number of them for Quebec as well as Ontario. I would say that there is not, certainly, complete uniformity in the regulations across Canada.

Mr. McCLEAVE: Are the standards too low or too high, in your opinion, from looking at these different provincial enactments?

Mr. MAGEE: I think the standards are satisfactory and I also might point out that in the trucking industry we must—our individual companies—put safety of operation as a paramount consideration because if they are an accident prone company, they lose their insurance, and as soon as they lose their insurance they are out of business because their public service vehicle permit is cancelled. This makes every company—every legitimate operator properly licensed by the provincial authorities—very keenly aware of this problem and it is a problem to which they are constantly giving attention.

Mr. KNOWLES: Mr. Chairman, I have two questions. Perhaps I might be pardoned for being facetious by saying we could meet the wishes of the two witnesses we have had this morning by taking ships, trains and aircraft out of this excluding clause and putting trucks in. I doubt whether we will adopt that solution.

My two questions are, first, is it not true that there are other areas in which employees will come under separate sets of regulations, for example, banks and radio broadcasting stations are covered by this legislation with respect to the health of the people working in such places while at the same time banks and broadcasting stations come under the building codes of the provinces?

Mr. MAGEE: Yes, that is so.

Mr. KNOWLES: My second question is related to this. Is it not pretty clear that there is every intention of co-operation between the federal and provincial authorities in matters of safety? As you know, the plan is to use some of the

same safety officers for inspection and in view of all this, do you think there really is the danger of overlapping. Is not co-ordination likely to hasten the day when we will have one set of standards across the country?

Mr. MAGEE: Mr. Knowles, I think you have got right to the root of the concern which has lead to this submission. I think that if the trucking industry understands that there will be a co-ordination of the regulations and not a new overlapping layer of regulation on top of something that is already serving the purpose in the field of safety, that that will be a very reassuring factor for the industry.

Mr. KNOWLES: Did you notice that in clauses 10 and 11 of the bill—

Mr. MAGEE: Yes.

Mr. KNOWLES: —the minister may designate any person as a safety officer and enter into an agreement with the provinces.

Mr. MAGEE: Yes, that is correct. I think if that approach is followed through it is another way of meeting the concern—I think it is a legitimate concern—that the industry has that it will be laden down with some new regulations that are already in effect in some other jurisdiction to which they have been adhering.

Mr. BARNETT: Mr. Chairman, Mr. Knowles has already indicated some of us may have our views about the proposed exemption of ships and airlines and railways under subclause (3), but leaving that aside for the moment, I wonder if Mr. Magee is aware of the fact that in some previous discussion on this question the suggestion was made that the reason for this subclause (3) is the existence of certain other federal legislation such as the Aeronautics Act, the Railway Act and the Canada Shipping Act and as far as I am aware, no parallel legislation exists federally to cover the trucking field. I wonder, whether in the light of the discussions in this connection, Mr. Magee really feels that there is a parallel argument or a parallel situation. I do not know of any intention to cover the situation with respect to trucking in a manner similar to that which is already in existence with respect to other forms of transportation.

Mr. MAGEE: Certainly at the present time there is no central federal board regulating extraprovincial trucking. There are, in effect, 10 federal boards because under the federal Motor Vehicle Transport Act provincial regulatory boards have been designated as the federal controlling agencies for extra-provincial trucking. This was the decision of parliament in 1954, and this is the way it is still working. It appears from Bill No. C-231, which would become the National Transportation Act, that in time there may be a direct federal control of extraprovincial trucking under the Canadian Transport Commission.

Mr. BARNETT: Thank you.

Mr. MAGEE: There is in that bill a Part III which provides for a very comprehensive form of direct federal regulation but that does not come into effect until the Governor in Council stops the working of the Motor Vehicle Transport Act and puts Part III into effect.

The CHAIRMAN: Do you have any further questions, Mr. Barnett? I know Mr. Tardif wants to ask a question.

Mr. TARDIF: No. The question I wanted to ask has already been asked.

Mr. BARNETT: I do not know whether the previous questioning is on the record. If it is not necessary, I will not repeat it.

The CHAIRMAN: I understand, Mr. Barnett, the answer has been recorded; maybe not your question.

Mr. BARNETT: I have only one further point. I was going to say that I was aware of the 1954 legislation. I remember some of the discussion which took place on the pros and cons of it at that time. Perhaps, I could put it more directly. Is it because of the proposals in the transportation bill that have been under current consideration that you are actually appearing to make this representation on this bill?

Mr. MAGEE: No, these representations were decided upon and the instructions which were given to me were given outside the context of Bill C-231.

The CHAIRMAN: I mentioned, Mr. Barnett, at the beginning of the meeting before Mr. Magee gave evidence, that he had expressed a wish to appear but I understand he was not able to do so before today.

Mr. BARNETT: I recall that there had been an indication that he might wish to appear.

The CHAIRMAN: Are there any further questions of Mr. Magee?

Mr. MACKASEY: Mr. Magee, mostly from curiosity, you mentioned that your association represented 7,000 trucking firms?

Mr. MAGEE: Yes.

Mr. MACKASEY: How many of the 7,000 have the right to haul between provinces rather than strictly within a province?

Mr. MAGEE: Approximately 1,000, I would say. There are some companies which are intraprovincial and only their extraprovincial operations are international. That applies, for example, in Ontario and in Quebec, but the number of extraprovincial companies which seem to be clearly under federal jurisdiction is 1,000.

Mr. MACKASEY: Do you not think, Mr. Magee, that for these 1,000, at the present moment, the only safety standards or legislation which applies to them, is provincial in nature? Do you not think that including the trucking industry, as we are doing in this bill, will, perhaps, hasten the day when we have a uniform safety code across the country because this has been the pattern in other areas? This bill, as you know, has been drawn up after very close consultation with the different provincial departments of labour. If I were a trucking man, it would seem to me that this would be an obvious advantage and, as Mr. McCleave was indicating the trucking industry would know the safety regulations to which they must conform and not realize that every time it goes from province to province it is subject to a different standard, in many cases, perhaps, archaic and outmoded laws. The one very good, direct feature of this bill is that it will, in all probability, lead to a uniform safety code across the country.

Mr. MAGEE: I would think that if the Committee did not agree with our proposal that we be removed from the bill, at least I would say that I hope, in the event that the Committee does not agree to our proposal that we be removed

from the bill, the results that you are suggesting do flow from it and I see no reason why they should not if it is handled in a co-operative manner.

Mr. REID: Mr. Magee, it is true that the trucking industry has been—even those firms which come under federal jurisdiction—traditionally governed by the provincial legislation because the federal government has turned its power over to agencies of the provincial governments. My question is that in your submission, as I understand it, you want to change this to some extent and to provide as a new transportation bill that the trucking industry—that part which is interprovincial—will be governed more by the federal statutes. This would mean, too, that you would come under them almost directly. There would be the safety code and there would be the new transportation legislation.

Mr. MAGEE: Yes, but in regard to the national transportation legislation, we have, as probably many members of the Committee are aware, supported that legislation, in principle, and have made our submission on it.

Mr. REID: And your amendment was accepted, as I recall?

Mr. MAGEE: Yes, we were very encouraged with the results of our submission.

Mr. REID: The real purpose of your amendment or your suggested inclusion in this particular bill would be to bring yourself more closely under federal jurisdiction for the purposes of safety?

Mr. MAGEE: I think in respect of safety, the view of the industry was that this was being taken care of adequately by the existing provincial statutes and regulations and for this reason, in respect of this particular legislation, we should ask to be exempted from it.

Mr. HYMMEN: Mr. Chairman, I have a question but I do not know whether it is fair to ask the witness or not. With reference to the transportation bill No. C-231, there are various bills in the house at various stages or in Committee in which there has been correlation and we all know about previous submissions. I believe I have met Mr. Gibbons of the Railway Brotherhood of Locomotive Firemen and Engineers repeatedly at hearings by the Board of Transport Commissioners on safety and health matters involving the railways. Is there any clause in this transportation bill specifically pointing out safety standards which, again, would refer to this clause 3 subclause (3) of the bill.

Mr. MAGEE: I believe it is clause 32 subclause (p) which is being added to the bill which will empower the Canadian Transport Commission, once it assumes direct control over extraprovincial trucking, or perhaps I should say, if and when it assumes direct control over extraprovincial trucking, to regulate on safety matters.

The CHAIRMAN: Are there any further questions, gentlemen?

Mr. HYMMEN: It would seem you are not going to get away from us, anyway.

Mr. MAGEE: No.

The CHAIRMAN: Thank you very much, Mr. Magee. Should we proceed with the clause by clause examination of the bill?

Since there are no further witnesses, unless you still have other questions to ask of the officers of the department, if you agree we can proceed to the clause by clause examination of the bill. Is it the wish of the Committee?

Mr. BARNETT: I assume that if there should be questions arising on particular clauses as we come to them the deputy minister or Mr. Currie would be available to give any explanations required.

The CHAIRMAN: I am in the hands of the Committee.

Mr. MACKASEY: May I make a suggestion, Mr. Chairman? If we are going on to the committee stage, we could invite either Mr. Currie or Dr. Haythorne to sit in a place where we can hear them and see them so that we will not be without their advice.

The CHAIRMAN: Mr. Mackasey, are you suggesting—? If the members of the Committee have questions to ask these officials they may ask them now.

Mr. MACKASEY: You said I was suggesting but you did not tell me what I was suggesting. If you start to tell me what I am suggesting, would you continue, please, so I will know.

The CHAIRMAN: Are you suggesting that Mr. Currie should—

Mr. MACKASEY: I am suggesting, now that we are getting into the committee stage, that we get Dr. Haythorne and Mr. Currie up here where we can ask questions on a particular specific clause of the bill.

The CHAIRMAN: It is up to you, gentlemen.

Members of the Committee, before we take up the clauses, would the Committee wish to undertake the clause by clause study in camera? It is up to the Committee to decide.

Mr. KNOWLES: We might have an amendment to move, Mr. Chairman, and how we vote on these things is a matter of public record.

Mr. McCLEAVE: I wonder if I could ask Dr. Haythorne a question? We have had some correspondence about it but I think this should be included in the minutes of the proceedings.

A few meetings ago, Mr. Chairman, I raised the question of the death of a young workman aboard a warship undergoing refit and repair at a private yard in Halifax. I acquainted Dr. Haythorne with this problem by letter and he was good enough to reply to me by letter with an indication that the Department of Defence Production would be asked in future to require some safety provisions be worked into contracts involving private shipyard works on naval warships. The question I ask Dr. Haythorne, is this, is he satisfied that the department will be agreeable to this approach suggested by himself?

Dr. G. V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman, we looked into this with some care, as you perhaps gathered from my reply.

Mr. McCLEAVE: Your reply was a very excellent letter, sir.

Dr. HAYTHORNE: Thank you very much, Mr. McCleave. This will take some time to work out with the Department of Defence Production. We have suggested that this seemed to us to be a practical way to proceed with it. I feel quite

sure that they recognize, just as we do, the importance of taking effective action in dealing with safety questions of this sort. I am hopeful we can develop something within a reasonable period. I would not like to say, Mr. McCleave, just when we can do it but we will stay with it and will be glad to keep in touch with you if you remain interested.

Mr. MCCLEAVE: Yes, indeed, I shall be interested and I shall appreciate being kept informed.

I wonder if I could ask a supplementary question? Should the department not be amenable to your suggestion, is there still power to cure this situation by regulation within the bill we are considering this morning?

Dr. HAYTHORNE: As you know, the bill before us deals with industries under federal jurisdiction; it does not deal with activities of the crown, as such. At the present time, we cannot take action under this legislation, Mr. Chairman and Mr. McCleave, but through the arrangements we have with the Treasury Board we can follow up with the kind of inspection, the kind of action, which seems to the Treasury Board and ourselves, sensible across the whole government field. We have the assurance of the Treasury Board that this is what they are prepared to do and we want to push ahead with that just as soon as we can.

The CHAIRMAN: Gentlemen, shall clause 1, the short title carry?

On clause 1—*Short title*.

Mr. KNOWLES: I think we deal with this last, do we not, Mr. Chairman? Do we not always deal with clause 1 last?

The CHAIRMAN: Clause 1 will stand. Clause 2.

On clause 2—*Definitions*.

The CHAIRMAN: Shall clause 2 carry?

Mr. BARNETT: I have a question I would like to raise about clause 2 which is the interpretation or definition clause of the bill, in particular with respect to clause 2(b) which contains the definition of an employer, it being a person operating or carrying on a federal work, undertaking or business. My question arises out of some experience we have already had in connection with the definition section of employer in the Canada Labour Standards Code with particular reference to the longshoring industry on the west coast of Canada. This relates, as most members will recall, to the question of the application of statutory holidays under the Canada Labour Standards Code, and came to the point where the Minister gave an undertaking to introduce an amending proposal to that piece of legislation.

I do not have the draft of the proposed amendment before me in connection with the other act, but I would like to raise this question about the definition of employer in this bill in view of our previous experience with the other one. I am sure probably most of us would agree that we would not want to run into any situation of the same nature in respect of the application of this bill. I wonder if we could have some explanation or clarification of this point. I would like to know whether this has been considered by the department in the drafting of this legislation.

Dr. HAYTHORNE: Mr. Chairman, this question which Mr. Barnett has raised does not apply or does not come up in the same way under this legislation as it does under the Canada Labour Standards Code, for this reason, that the problem under the Canada Labour Standards Code to which you refer, Mr. Barnett, is the problem of multi employer employment, as we are now calling it, where a worker in the normal course of his work may be employed, is, in fact, employed by more than one employer over the course of a month or a season. The question we ran into there is the question of the responsibility of the employer for vacation pay and statutory holiday pay, and we have to pin down just who is the responsible party and if there is more than one, how this will be shared and that is the intent of the amendment which is now before the house.

The question here of the responsibility with respect to safety is an individual matter of the man at the moment for whom the worker is employed, and we do not see the question likely to come up in the same form here, so we have not introduced any change the usual definition applied in cases like this.

Mr. BARNETT: In other words, the employer of a stevedore on the west coast would be his particular employer at any given moment in time as far as this legislation is concerned.

Dr. HAYTHORNE: Exactly, and it applies equally to all.

The CHAIRMAN: Shall clause 2 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 3.

On clause 3—*Application of Act*.

The CHAIRMAN: Shall clause 3 carry?

Mr. KNOWLES: Maybe we should stand this clause; it might get the rest of the bill through.

The CHAIRMAN: Mr. Knowles, do you have any amendments?

Mr. KNOWLES: My right hand man has an amendment, yes.

The CHAIRMAN: May I remind you that usually an extensive amendment has to be submitted in writing.

Mr. REID: We could stand this clause if there is going to be an amendment. It is about the only contentious clause in the whole bill. If we could have a copy of it, we could take it up at the next meeting.

Mr. BARNETT: Mr. Chairman, if other members of the Committee would like to know what I have in mind and I think we all recognize, in view of the representations we have had and some earlier discussions before we heard witnesses, that this has been the major question in the minds of some members of the Committee, the proposed terms of this clause. If it is the wish of the Committee I would be quite prepared to propose my amendments and if it was the desire then to let the clause stand along with the amendments, I would be quite agreeable to that. I could then give you the copies I have. I do not have enough copies for every members of the Committee but I have enough to pass around.

The CHAIRMAN: As the Committee knows, it is quite a long clause. Will your amendments, Mr. Barnett, apply to the whole clause? If not, we could go to the part of clause 3 not affected and stand whatever sub-clauses to which you intend to move amendments.

Mr. BARNETT: Mr. Chairman, I would like to propose an amendment to subclause (1) of clause 3 and also, what I might describe as a consequential amendment to subclause (3). If it is agreeable, I am quite willing to propose these amendments now. I suppose, inasmuch as they are all in the one clause, I could do it in one amendment. If it is the desire of the Committee to defer any discussion on this clause or the amendments to it, I would be quite glad to do that.

The CHAIRMAN: I think we should stand clause 3.

Mr. McCLEAVE: I think if we are given notice today of the amendments he would like to see, then we can have time to consider them before we come to the next meeting. We can pass the rest of the clauses. This has been done quite effectively in the Public Service Committee. I think it is a good approach.

Mr. KNOWLES: I suggest whether or not Mr. Barnett formally moves his amendment, this Committee might like to have him read them out.

Mr. BARNETT: Mr. Chairman, I would like to move that subclause (1) of clause 3 be amended by deleting in line 22 thereof, the words, "subject to" and substituting therefor the word, "Notwithstanding", and that subclause (3) of clause 3 be amended by deleting the words, "applies to or" which is in line 43, and substituting therefor the words, "affects the provisions of any other act or the regulations thereunder". Perhaps, I could, just by way of explanation, say that as I understand it, the effect of my amendment would be—the change in subclause (1)—to give this legislation overriding jurisdiction in the field of safety, but at the same time providing by the proposed amendment in subclause (3) that the safety provisions in existing acts or the regulations which are made under them would be waived or amended only by specific order in council. This, I believe, would avoid wiping out the effect of existing regulations except by action of the Governor in Council, but at the same time, in my view, make it clear that the initiative for a co-ordinated safety program applying in all of the federal fields of jurisdiction would rest under this act and with the Minister of Labour. In other words, rather than the Minister of Labour having to convince his other colleagues in the cabinet that changes were desirable, he could take the initiative and they would have to prove they were not desirable. This is the general intent of the amendment which I suggest.

The CHAIRMAN: Are you making a formal proposal of these amendments, Mr. Barnett?

Mr. BARNETT: If it is agreeable, I would so move and then in the light of the other discussion—

The CHAIRMAN: I imagine you have a seconder?

Mr. KNOWLES: Your imagination is very sharp. I second the motion.

Mr. McNULTY: Would you read the motion out loud again?

Mr. BARNETT: Perhaps, Mr. Chairman, if it is the desire of the Committee I could read the two subclauses as they would be with the amendments as I have proposed them. Subsection (1) would read, if it were amended as I propose:

Notwithstanding any other Act of the Parliament of Canada and any regulations thereunder, this Act applies to and in respect of employment upon or in connection with the operation of any work, undertaking or business that is within federal jurisdiction.

Then, subclause (3) would read as follows:

Notwithstanding subsections (1) and (2) and except as the Governor in Council may by order otherwise provide, nothing in this Act affects the provisions of any other Act or the regulations thereunder in respect of employment upon or in connection with the operation of ships, trains or aircraft.

As has previously been explained to us, this applies to the operating personnel actually on ships, trains or aircraft.

The CHAIRMAN: Are there any further questions, Mr. McNulty?

Mr. McNULTY: Just that addition after "act". Would you read that again?

Mr. KNOWLES: "Affects the provisions of any other act or the regulations thereunder". Those words take the place of the words "applies to or".

Mr. MACKASEY: At first glance, Mr. Chairman, the amendment to subclause (3) seems innocent enough but I would suggest, Mr. Chairman, with Mr. Barnett's co-operation, that we take the suggested amendment under advisement so that the law officers can read whatever implications into it they feel like and we can have a more fruitful discussion on it at the next meeting.

Mr. BARNETT: I do not pretend to substitute for the law officers in the matter of the drafting; all I am trying to do is to make my intent clear. If it was a matter of drafting to put it in proper legal form, I would certainly be amenable to any suggestion in that direction.

The CHAIRMAN: Are any further amendments contemplated by any member of the Committee before we stand this clause? It seems to be the most contentious clause of the bill. There may be further amendments.

Mr. RICARD: Not at this stage, Mr. Chairman, but I may have an amendment to move at the next meeting.

The CHAIRMAN: On clause 3, Mr. Ricard?

Mr. RICARD: On clause 3.

The CHAIRMAN: Shall clause 3 stand?

Some hon. MEMBERS: Agreed.

Clause 3 stands.

The CHAIRMAN: Clause 4.

On clause 4—*Duty of employer*.

The CHAIRMAN: Shall clause 4 carry?

Mr. BARNETT: Mr. Chairman, on clause 4, there was a suggestion made in the presentation by the Canadian Labour Congress in connection with the phrase "or reduce the risk of" and perhaps we should give some consideration to that suggestion. The argument advanced, as the Committee will recall, was that the

objective should be simply to prevent employment injury, and while we might be prepared to agree that complete elimination of employment injury is not too easy to achieve, nevertheless the legislation might clearly indicate that the objective of the legislation was to prevent or eliminate employment injury rather than simply to be content with reducing it.

Mr. MACKASEY: I understand the spirit in which Mr. Barnett brings forward his suggestion, but the moment we introduce the word "prevent" we are changing the spirit of the bill and we are leaving ourselves open to the facts of life that we will never prevent accidents entirely because accidents do have a human element. You can never regulate emotions and you are always going to have accidents. The minute we use the word "prevent" we are dooming the bill to failure for all time because we are never going to completely prevent accidents. The main purpose of the bill—although this is the laudable end result, or Utopia if you want to put it that way,—is to reduce accidents.

Mr. KNOWLES: Does Mr. Mackasey not know that in the area of aircraft regulations, the rule is that the predictable margin of error must be zero?

Mr. MACKASEY: I hope it is any time I am up there, Mr. Knowles. Every time one of them flunks, we have to say we have not reached what we are after.

Mr. KNOWLES: Yes; accidents occur, but the aim is to prevent them.

An hon. MEMBER: Of course.

Mr. MACKASEY: I just do not think that if the definition is that close we are gaining anything by substituting "prevent". What are we gaining other than—

Mr. KNOWLES: It is already there.

The CHAIRMAN: Strike off "or reduce".

Mr. KNOWLES: Eliminate the words "or reduce the risk of", so the line would read: "Intended to prevent employment injury".

Mr. MACKASEY: How are we improving the bill by removing "or reduce"?

Mr. KNOWLES: We are setting a higher standard.

Mr. MACKASEY: How are we setting a higher standard? We are setting a more noble motive, maybe, but how are we improving the bill?

Mr. BARNETT: Mr. Chairman, might I suggest that there may be, from time to time, disputes arising out of this legislation in which it may have to be argued where a certain responsibility lies. It does appear to me, as it is worded now, that if, for example, there was a dispute whether an employer had taken proper safety precautions, he might successfully argue in a court that he had taken steps to reduce the risk of, and the court would then have to rule that the court was satisfied that he had reduced the risk of injury. On the other hand, the opposing parties might argue that, in their view, he had not taken steps to prevent employment injury that were adequate. It seems to me, not being, as we often say, learned in the law, that we are, in effect, leaving a loophole as it is worded here for implementation of safety prevention measures at a lower level than would be the case if we eliminated that phrase.

Dr. HAYTHORNE: Just on the point Mr. Barnett is making, Mr. Chairman, I would have thought that in a situation where it could be shown that it is quite

impossible or, at least, impracticable to prevent an accident, a court might, if we do not have this in here, say that the man could not be charged on the grounds of preventing that, but he could have been charged on the grounds of taking a reasonable step to reduce the risk. Just to turn your point around the other way, Mr. Barnett, I think that there might very well be, in a realistic situation, a position where it could be argued that a man could not be expected to prevent an accident because of slippery ground or you can think of all kinds of situations, where he could not prevent it, and if we do not have these words in he might not have even taken reasonable steps for reducing the risk. We do not want to lower the responsibility on a person but we want to be realistic in a situation.

The CHAIRMAN: Shall clause 4 stand? Mr. Barnett, do you have any further comments?

Mr. BARNETT: I do not feel too dogmatic on this point in my own mind. I think there are pros and cons to the point I raised and the point Dr. Haythorne raised.

The CHAIRMAN: Shall clause 4 stand?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Clause 5.

Clauses 5 and 6 agreed to.

On clause 7—*Regulations*.

The CHAIRMAN: Gentlemen, here I would call for a motion inserting a comma after the word "storage" in line 19, and delete the word "and" in line 20 in subclause (f). Put a comma after "storage" and delete the word "and" before the word "use" in line 20. Shall the amendment carry?

Mr. KNOWLES: This is not beyond the terms of the royal recommendation?

Mr. McCLEAVE: This makes us truly the chamber of sober second thought.

I move that clause 7 (f) be amended by inserting a comma after the word "storage" on line 19 and that the word "and" at the beginning of line 20 be deleted.

Mr. REID: I second the motion.

Mr. MACKASEY: Mr. Chairman, Mr. Davis, our legal adviser, has suggested that in view of Mr. Barnett's original amendment to clause 3 and because we have asked that clause 3 stand, clause 7 should stand also because he feels that it could have a direct effect on it.

Mr. BARNETT: I was about to raise that point, Mr. Chairman, with respect that clause 7 as amended now, should stand until we have dealt with.

Mr. KNOWLES: Stand the clause as amended.

The CHAIRMAN: Shall the amendment to the clause carry?

Some hon. MEMBERS: Carried.

Amendment agreed to.

The CHAIRMAN: Shall clause 7 stand?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Clause 8.

On clause 8—*Special committees.*

The CHAIRMAN: Shall clause 8 carry?

Mr. BARNETT: Mr. Chairman, I wonder if we might have any comment on the point that was raised on clause 8 by Mr. Morris when he was presenting the brief on behalf of the Canadian Labour Congress? He did raise two points in connection with this clause. One was the question of substituting the word "shall" for "may". I have listened to a number of discussions about these two words and I have heard it argued that there is not too much difference legally between the meaning of them.

The second point was the suggestion that it should be made clear in the legislation that employers and employees should have equality of representation on the advisory committee. I wonder if we could consider for a minute the idea of inserting the word "equally" after the word "are"; that is, between lines 9 and 10, so that it would read: "on which employers and employees are equally represented to advise the Minister on any matters arising in relation to the administration of this Act."

Dr. HAYTHORNE: On the first point, we have considered this observation which was made by Mr. Morris and Mr. Andras. Since "may" is the usual language in a case like this, we felt it was preferable to use "may" rather than "shall". I think the other consideration is that it does give us a little more flexibility. If it is felt on occasion that it would be found to vary the approach, then we can do it. If we say "shall", then we always have to, whether it is appropriate or not and establish committees. We think it is better to leave it this way because it gives us all the authority we need and, as I said, gives us this slight degree of flexibility which, I think, on occasion, may be practical.

On the question of equality, we have also considered this and our preference would be to leave the text as it stands simply because there may well be occasions when we would want to have more employees on a committee than we would want to have employers. We do not necessarily feel it is desirable to be tied. It could be one way or the other, and we would normally, where the interests are equally represented or should be equally represented, follow the practices we normally do of having equal representation but there might be occasions when it would be desirable to have, as I said, more of one or the other.

Mr. GRAY: Mr. Chairman, I think that the suggestions made by the Canadian Labour Congress the other day were very constructive in this area and, perhaps, while I understand the official's desire to maintain flexibility in any statute the official has to administer, I think it would be useful if the officials of the department could state the intention of the department with respect to advisory committees so that even if this Committee of the house did not press for changes in the wording we would know what the department has in mind.

I think we should be assured that the minister intends to establish consultative and advisory committees. I might also add that I find it difficult to see a situation where it would be useful to have more employers than employees. I could see situations where the reverse might be useful but I find it difficult to see where it would be constructive to have a committee with more employers than employees. Again, while I think there is some merit in giving the administrators of this code some flexibility, I hope that the situation will not arise and we

see employees represented less than equally in any committees which might be established under this act. I would like to hear from Dr. Haythorne on these points.

Dr. HAYTHORNE: There is no doubt, Mr. Chairman and Mr. Gray, that we will go ahead with the establishment of committees. This is the firm intention. We believe in these types of committees. We think it is most essential in a case like this, as I think I said at the very opening of the sessions of the Committee, to have participation from both sides, we feel it is very important in developing our standards and seeing that the standards are carried out.

I would certainly agree with Mr. Gray, too, that where we would depart from having equality, it would be on the employee's side in by far the majority of cases. I cannot think of a situation at the moment where we would want to have more employers than employees, but I made the comment earlier because there is always the possibility that something might develop which is highly technical from the employer's point of view. Normally, I would agree that if we do vary, it would be on the employee's side and I can think of occasions when this might be very desirable.

Mr. GRAY: Mr. Chairman, I will be very brief. I do not want to lengthen the discussion in any way. I just want to say that I think encouragement by this government of the principle of labour-management consultation is an extremely vital one at this time and in the future and I think we should press ahead with this in any legislation under our jurisdiction that pertains to this aspect. I want to say that I hope Dr. Haythorne can tell us whether or not consideration of committees is presently under way so that at least one general committee can be established for purposes of consultation and advice as soon as possible after parliament might give its approval to this legislation.

The CHAIRMAN: Mr. McCleave and Mr. Barnett after him.

Mr. GRAY: I have finished my remarks on this phase.

Mr. MCCLEAVE: The point I want to make is about Dr. Haythorne's opposition to the use of the word "shall". I think if you read it strictly with the word "shall" it would probably mean that the department or the minister would have to establish, say, 1,000 committees, most of which would be useless or valueless, nobody would want to work on them but it would be mandatory for him to establish them rather than to pick the areas where the establishment of a committee would be helpful. So I certainly would oppose the use of the word "shall".

Mr. BARNETT: Mr. Chairman, I find myself reasonably satisfied with the explanation of the intent of the minister and of the department in respect of equality of representation. I could see where there might be a situation, for example, where a number of smaller employees or a number of smaller employers perhaps, only one large union might be involved, where this kind of flexibility might be desired. As long as we have a firm understanding that, generally speaking, this is the intent, that the practice of equality of representation will be followed, I, for one, would be satisfied to see the bill remain as it is. I am sure that there are enough interested parties who will be watching the administration of this act to make known their dissatisfaction if at any time in the future the practice should vary from this.

Mr. MACKASEY: Perhaps, Mr. Barnett, you were also swayed by the very logical argument of Mr. McCleave to withdraw your suggestion.

Mr. BARNETT: I was not stressing that; I wanted some explanation on it.

The CHAIRMAN: Shall clause 8 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 9.

Shall clause 9 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 10.

On clause 10—*Safety officers*.

The CHAIRMAN: In the French version I have to ask for a motion to delete the sign "(1)" indicating a subsection. Is there a motion to this effect?

Mr. RICARD: I move that clause 10 in the French copy of the bill be corrected by deleting the sign "(1)" indicating a subclause.

Mr. REID: I second the motion.

The CHAIRMAN: Shall the amendment in the French copy of clause 10 carry?

Some hon. MEMBERS: Carried.

The CHAIRMAN: Shall clause 10 as amended in the French text carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 11.

On clause 11—*Agreements respecting use of provincial employees as safety officers*.

(Translation)

● (10.59 a.m.)

Mr. CLERMONT: Regarding Clause 11, has Dr. Haythorne got anything to say with respect to the brief presented regarding this clause, or regarding agreements which the Minister may make, or has made, with the provinces in the matter of security?

The CHAIRMAN: What brief are you referring to?

Mr. CLERMONT: I am referring to Mr. Morris' brief of last Tuesday. I am referring to page 11 of the French version, paragraph 28. He says:

"We note with interest, and some concern, the provision in Article 11 which would enable the Minister to enter into an agreement with a province or any provincial body with respect to the terms and conditions under which a person,—

And so on; this brief seems to show some anxiety because it says that some inspectors will be overloaded with work in certain provinces.

(English)

Dr. HAYTHORNE: Mr. Chairman, Mr. Nicholson made a comment in his statement to the Committee about the extent to which we have already been co-operating in the development of this legislation with the provinces. We have also had several discussions with them about how we can best enforce or apply the legislation, and we have been very encouraged by the desire on the part of the provinces to work closely together with us in the development of standards and in the development of practical plans for utilizing provincial inspectors. This is exactly what we would like to work out with them wherever this can be done on a practical and sensible basis.

We are aware that this is a big task and that, in some of the provinces, the men who are already involved in this work are overworked. It would be our intention to see that we not only expand our own staff as quickly as we can where this is necessary but encourage additional staff where they are needed in the provincial governments and assist with the training of these people. I think we are all aware that safety inspectors need to be well trained and we would want to develop, and I have every confidence, having talked this matter over with the provincial deputy ministers of labour, that they are ready to move ahead in a realistic way with a training program for safety inspectors in which we would all co-operate.

(Translation)

Mr. CLERMONT: Regarding the addition of regular staff, would this come under the province or the Federal Government?

(English)

Dr. HAYTHORNE: It could come under both. Some would be ours and some provincial.

The CHAIRMAN: Shall clause 11 carry?

Mr. GRAY: Mr. Chairman, I realize that the intentions of the government and the department are of the best with respect to this clause and I can see, again, the need for flexibility in arrangements and it is not obligatory for this inspection to be carried out by provincial officers, but I would like to state my own view at this time.

In my opinion, the federal government should, wherever possible in matters clearly under its jurisdiction, carry out its work with its own officers to make sure that its responsibilities are adequately and fully carried out. I think it is clear that in provinces such as Ontario, as the Canadian Labour Congress' brief indicated, there are many cases of a shortage of provincial staff and there is even some question whether the provincial laws with provincial staff are carrying out their duties adequately. I hope that the federal government will not rush into giving this responsibility to provincial officers. I agree fully with the need for consultation on standards and the need for co-operation, but I would like to state, at this time, that I would view with some regret a widespread use of this particular clause. I feel the Department of Labour should use its powers of jurisdiction in as creative and complete a manner as possible and this includes powers under this new act.

The CHAIRMAN: Shall clause 11 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

Clause 12 agreed to.

On clause 13—*Employment safety programs.*

The CHAIRMAN: Shall clause 13 carry?

Mr. BARNETT: Mr. Chairman, I have a question I would like to ask on clause 13 which has to do with the minister undertaking programs to reduce or prevent employment injury in co-operation with other government departments or provincial governments or other organizations. I would like to ask whether or not this clause as it is worded would provide authority for the minister to undertake training programs for safety officers in, perhaps, the organization of courses in the vocational and technical schools or institutes.

There had been some earlier discussion about the fact that some existing safety officers in various jurisdictions are, perhaps, not as well qualified as they might be. We hear a lot of discussion about the lack of trained personnel in various fields these days and I am wondering whether it is understood that this clause, as it is drafted, would authorize the minister as part of a program to reduce or prevent employment injury, to undertake specific programs or to organize courses in this field for the training of safety officers where such may not now exist?

The CHAIRMAN: Before we adjourn, Dr. Haythorne, would you like to make some comments?

Dr. HAYTHORNE: If I could just answer briefly, I would say, on this point, Mr. Chairman, that reading clause 13 along with clause 11 and the fact that the minister has general authority, under our departmental votes and responsibilities, for staff, there would be no question about our ability under this clause to develop the kind of programs which you have in mind which would involve training. This also, of course, permits various types of educational programs to be undertaken. Educational programs would involve seminars or conferences on the one side but also broader kinds of public relations activities through the press, through pamphlets and various activities of this kind. The actual development and the preparation of people to undertake this can be done under this in co-operation with or taking into account our other authorities, so I would anticipate no problems as far as the authority is concerned.

Mr. BARNETT: Has any assessment been made of the need for a training or upgrading program for safety officers, or considered by the minister?

Dr. HAYTHORNE: We have given a lot of thought to the extent to which we will need additional staff. We have our plans well developed here. We are fully aware that this will involve a training program. We would anticipate the kind of training that our people will need being done, as I said a few minutes ago, in co-operation with the provinces.

Mr. BARNETT: In other words, if I may say so, more is envisaged than simply a new series of posters suggesting that we do not stub our toes.

Dr. HAYTHORNE: Absolutely; very, very much more.

The CHAIRMAN: Shall clause 13 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Gentlemen, since members have other committees to attend, the meeting is adjourned until next Tuesday.

HOUSE OF COMMONS
First Session—Twenty-seventh Parliament
1966

STANDING COMMITTEE
ON
Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 10

TUESDAY, DECEMBER 13, 1966

Respecting ★
BILL S-35

An Act respecting the prevention of employment injury in
federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: The Hon. J. R. Nicholson, Minister of Labour; Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner
and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,

Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape
Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,

Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

REPORT TO THE HOUSE

WEDNESDAY, December 14, 1966.

The Standing Committee on Labour and Employment has the honour to present its

SECOND REPORT

Your Committee has considered Bill S-35, An Act respecting the prevention of employment injury in federal works, undertakings and businesses, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 5 to 10 inclusive) is appended.

Respectfully submitted,

GEORGES-C. LACHANCE,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, December 13, 1966.

(11)

The Standing Committee on Labour and Employment met this day at 11.20 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, McNulty, Reid, Skoreyko, Tardif—(18).

In attendance: From the Department of Labour: The Honourable J. R. Nicholson, Minister of Labour; Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch;

And also Dr. P.M. Ollivier, Q.C., Parliamentary Counsel.

The Chairman informed the Committee that Clauses 1, 3, 4 and 7 had been allowed to stand and that Clauses 2, 5, 6, 8, 9, 11, 12 and 13 had been adopted.

Agreed: that clauses 14 to 31 carry.

The Committee then recalled clause 3 and after discussion the question was put on the amendment of Mr. Barnett, seconded by Mr. Knowles,

That clause 3 of Bill S-35 be amended by deleting in line 22 thereof the words, "subject to" and substituting therefor the word, "notwithstanding",

and that

sub-clause 3 of clause 3 of Bill S-35 be amended by deleting the words, "applies to or" and substituting therefor the words, "affects the provisions of any other Act or regulations thereunder".

The amendment was *negatived* on Division.

Mr. Knowles moved, seconded by Mr. Barnett,

That sub-clause 3 of clause 3 of Bill S-35 be deleted entirely.

On Division, the amendment was *negatived*.

Agreed—That clause 3 carry.

The Committee then recalled clause 4.

Mr. McCleave, seconded by Mr. Barnett moved,—That sub-clause 2 of clause 4 be amended by striking out in line 8 the words "or reduce the risk of".

After discussion, Mr. McCleave by *unanimous* consent withdrew his motion. Later it was

Agreed,—That clause 4 carry;

Agreed,—That clause 7 carry;

Agreed,—That clause 1 carry;

Agreed,—That the Title carry.

On motion of Mr. McCleave, seconded by Mr. Reid,

Agreed,—That the amendments to clause 7 in the English copy and to clause 10 in the French copy of Bill S-35, made on Tuesday, December 8, 1966, be considered as corrections to clerical and printing errors and that they not be reported back to the House but drawn to the attention of the Parliamentary Counsel and the Law Translators by the Clerk of the Committee.

Ordered—That the Chairman report the Bill without amendment.

The Chairman thanked the members of the Committee, the Minister of Labour, the Departmental officials and the other witnesses for their attendance, before the Committee.

At 12.35 o'clock p.m., there being no further business, the Chairman adjourned the meeting to the call of the Chair.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, December 13, 1966.

• (11.17 a.m.)

The CHAIRMAN: Order, please, Gentlemen.

At the last meeting of the Committee we were at clause 14. Shall we carry on with the study of the bill at this point? Clauses 14 to 18 inclusive, agreed to.

On clause 19—*Directions arising out of inspection.*

(Translation)

Mr. CLERMONT: Is the regional officer able to appeal or does a corporation have the right to appeal to a higher court?

The CHAIRMAN: Mr. Clermont, would you like to repeat your question please.

Mr. CLERMONT: Does the regional officer have the authority to appeal for an employee?

(English)

Dr. G. V. HAYTHORNE (*Deputy Minister of Labour*): On clause 19, sir?

Mr. CLERMONT: Yes.

Dr. HAYTHORNE: Mr. Chairman, I would expect that in the ordinary course of events a decision by a regional safety officer could, if necessary, be taken to the minister of a department, or to the deputy minister, or to other senior officials—those responsible for the general administration of the legislation. There are well-established channels for this sort of thing in any case, and I would wish to assure the Committee that this kind of pattern of communication would certainly be maintained. The regional safety officer is not necessarily going to be the last word.

Mr. CLERMONT: But clause 19 does not say so?

Dr. HAYTHORNE: That is quite correct, sir. I think that in the administration of any of the laws in our department over the years there have been many uses of these informal channels for representation, and since the minister is responsible for the totality of the legislation under our interpretation section. I would think this would be the normal course to follow if any one is dissatisfied with the administration of the legislation in any way.

Clauses 19 to 29 inclusive agreed to.

On clause 30—*Statute Revision Commission to consolidate Labour Statutes.*

The CHAIRMAN: Shall clause 30 carry?

Mr. KNOWLES: Mr. Chairman, I would like to say a word of approval and appreciation of this clause. I think it will be a good idea to have all of our labour legislation in one place. I do not mean by that that the various acts which are going to be consolidated are necessarily satisfactory.

An hon. MEMBER: I hope.

Mr. KNOWLES: That is right; because there is room for improvement in them, and I look forward to this being done. I think the selection of an over-all title, Canada Labour Code, is good. I take it, however, Mr. Chairman, that when this is done we will have, in one statute, all of the legislation affecting workers who come under federal labour jurisdiction but it will not include people who work for the government, or are on government contracts?

Is it not possible to produce a document similar to the one I am thinking of for the Fair Wages and Hours of Labour Act and the various regulations under other statutes? And, of course, there is the whole business of collective bargaining which is coming in. You are probably going to tell me that this is under some other department, but if we do get workers who come under federal jurisdiction in the preferred position where their legislation is all in one place. Why should government employees not be in the same kind of position? As it will stand, their legislation will be all over the place.

Could Dr. Haythorne comment?

Dr. HAYTHORNE: We felt, Mr. Chairman, that we were taking a very important step here in consolidating all of these acts that are under federal jurisdiction.

I think that to go any further than this at the moment, Mr. Knowles, would raise quite a number of questions, because of the fact that you have different agencies responsible for administering the different acts. We have the responsibility, as you know, in the Department of Labour, for administering the Fair Wages and Hours of Work Act. The collective bargaining act will be under the Treasury Board. Under the Financial Administration Act there are provisions for looking after working conditions and related matters of employees in federal departments. That is distinct, as you know, from the collective bargaining act which is now before the House.

I think it is a matter that could, perhaps, be looked at some time, but at the moment I would see quite a lot of difficulty because of the differing jurisdictions.

Mr. KNOWLES: I thank Dr. Haythorne for supporting my proposition. He has spelled out that there is considerable confusion.

Generally we are told that people who work for the federal government will, of course, get the same benefits and provisions as we enact for everybody else, but when we try to find them it becomes pretty difficult.

At the moment, I suppose, all I can do is ask that this matter be studied, and that there be some kind of companion piece for employees of the government comparable to this charter or code that is being put together for workers who come under federal labour jurisdiction.

Dr. HAYTHORNE: Perhaps I might just add that there must be less difficulty for those who are employed directly by the government, because these are all being handled by the Treasury Board now. The problems which arise in

connection with work under contract, which is what we handle under our Fair Wages and Hours of Labour Act, represent a sort of middle or third group that is not really directly under federal jurisdiction except during the time when they are working for us.

I think this is a matter which might very well, as Mr. Knowles is suggesting, be looked into and we would be glad to co-operate in such an inquiry.

Mr. KNOWLES: I have one question about the Fair Wages and Hours of Labour Act. That Act actually applies to people who are not federal employees but who are working on contracts under the federal government,

Dr. HAYTHORNE: Exactly.

Mr. KNOWLES: Why could it not be included in this proposed new Canada Labour Code?

Dr. HAYTHORNE: Because they are not directly under federal jurisdiction, and they could not be considered as within the definition of the "federal works and undertakings" which come within our sphere. This would give rise to some confusion.

The CHAIRMAN: Mr. McNulty and then Mr. Faulkner.

Mr. McNULTY: Mr. Chairman, I just want clarification of Mr. Knowles' statement. When he was referring to federal employees, was he referring to the civil service or others outside the civil service?

Mr. KNOWLES: I was trying to distinguish between the two groups of people. When we talk about workers who come under federal labour jurisdiction we mean railway workers and bank employees and so on—people who work for outside employers but who, under the constitution, come under federal jurisdiction. When I talk about government employees who come under the Treasury Board I am talking about civil servants and the whole range of that kind of employee.

Mr. FAULKNER: Again, I just have a point for clarification. For my own purposes, it would seem that Mr. Knowles has a very valid point here if we had instances of wide-spread discrepancies between standards as applied to the one group as opposed to the other; whereas, in fact, if we have a situation in which although the jurisdiction appears to be divided and the authority appears to be different, that conditions are the same, then the only reasons for bringing them together would be for, maybe, administrative purposes and neatness. I was wondering if there has ever been any suggestion that the standards are radically different as between the two groups?

Mr. KNOWLES: We had quite a job getting the minimum wage established for everybody who works on parliament hill, after the Canada Labour Standards Code was passed.

You have a problem right with us today. Even Eldon Woolliams was confused yesterday when he was talking about the threatened strike of the Air Traffic Control people as though they were Air Canada employees. They are government employees who come under federal Treasury Board legislation as opposed to the Air Canada people who come under the Canada Labour Code.

Mr. BARNETT: May I ask one other question, which might be a question for Dr. Ollivier?

In the general indexing in the revised statutes, there is usually a heading of a group of acts that are listed; acts for reference, in this case in the Department of Labour. Would it be possible for the Statute Revision Commission to include the Fair Wages and Hours of Labour Act in respect to federal contractors in this heading so that there would, at least, be that much of a grouping of acts.

Mr. P. M. OLLIVIER (*Parliamentary Counsel*): It would not be in the index, but in the cross-index. In the cross-index you might make a reference to all the statutes which deal with those subjects, but my objection to Mr. Knowles' suggestion is a little different. For instance, in the Public Service Act, you have a general code for the public service there, and the suggestion seems to me that he wants to take certain clauses out of that and put them in the Canada Labour Code. Now, when you read the Public Service Act you would miss those clauses which would have been transferred to the—

Mr. KNOWLES: No, Dr. Ollivier, I was not asking that they be taken out of the Public Service Employment Act. I was simply asking that there be a compendium of various things like the Public Service Employment Act and the collective bargaining legislation and other pieces of legislation which directly affect government employees; so that there would be a document all in one place for government employees similar to this document that is all in one place for non-government employees.

Mr. OLLIVIER: Yes, but there are two classes of people who would come under your labour code. They would be the people who come under the public service and also the people who are not under the public service, but who have come indirectly under the jurisdiction of the federal parliament. I do not think they should be confused, because the same clauses do not apply to them. You cannot say that the minimum salaries for instance in the public service will be the minimum salaries in the railways.

Mr. KNOWLES: Well, Dr. Ollivier they do not. None of these statutes listed here affect government employees directly.

Mr. OLLIVIER: No; so why put public servants in the code.

Mr. KNOWLES: I am not suggesting, Dr. Ollivier, that they be put in the same volume. I am suggesting there be another volume.

Mr. OLLIVIER: It will be a labour code that will cover everybody.

Mr. KNOWLES: No, no, I want two labour codes—

Mr. OLLIVIER: Oh, oh.

Mr. KNOWLES: But just as there is one code where there is in one place everything that affects the private employees, I would like to have one document that has everything in it that affects government employees in their labour relations.

The CHAIRMAN: Are you through, gentlemen.

Mr. KNOWLES: I am not asking for only one; I am asking for two.

Mr. McNULTY: Both administered in the same department, is that it?

Mr. KNOWLES: The other may have to be under the Treasury Board.

Mr. OLLIVIER: So you would have to have three. You would have to have one for parliamentary employees also.

Mr. KNOWLES: I am glad you are working on that, Dr. Ollivier.

Mr. McCLEAVE: Perhaps there are four because the outside people are on subcontracts.

Mr. KNOWLES: I am sorry if I have been misunderstood. I approve of what is being sought in clause 30 of this bill. I just want the same thing done for direct federal employees.

An hon. MEMBER: Carried.

Mr. OLLIVIER: Oh, yes. You cannot do it in this bill.

Mr. KNOWLES: I have asked for it to be studied.

The CHAIRMAN: Shall clause 30 carry?

Clause agreed to.

On clause 31— *Coming into force*.

Mr. McCLEAVE: Do we get an indication when this might be done or would Dr. Haythorne be able to speak to us on this point.

Dr. HAYTHORNE: Well, after the bill is passed we have to develop the regulations; we have been working on some of them. We will have to have extensive discussions with the provincial governments on this further. We have developed it, as I said at the beginning, in co-operation with the employers and the unions concerned. It will take some months. I would not want to say when.

Mr. McCLEAVE: You could chart this for some time in 1967?

Dr. HAYTHORNE: We would hope to get it some time in 1967.

The CHAIRMAN: Shall clause 31 carry?

Clause agreed to.

The CHAIRMAN: Now, gentlemen, we are back to the clause that was stood on account of amendments. I shall now call clause 3.

On clause 3—*Application of Act*.

An amendment was moved by Mr. Barnett and seconded by Mr. Knowles that clause 3 of Bill No. S-35 be amended by deleting in line 22 thereof the words "subject to" and substituting therefor the word "notwithstanding". And that, in the same clause 3, subclause (3) of Bill No S-35 be amended by deleting the words "applies to or" and substituting therefore the words "affects the provisions of any other act or the regulations thereunder".

Mr. DUQUET: Which clause?

The CHAIRMAN: Subclause 3, Mr. Duquet. There are two different amendments. I think we should proceed with the first amendment.

Mr. BARNETT: Mr. Chairman—

Mr. KNOWLES: We could take them both together: it is one amendment.

Mr. BARNETT: Mr. Chairman, when I moved the amendment I pointed out that both amendments are to the same clause.

The CHAIRMAN: Yes.

Mr. BARNETT: In my understanding one amendment was consequential on the other. This is why I feel they more or less have to be considered together.

The CHAIRMAN: These amendments are in two parts, but I understand the two parts are the same.

Mr. KNOWLES: It is one amendment to clause 3.

The CHAIRMAN: Are there any members of the Committee who wish to speak on this amendment?

Mr. FAULKNER: Well, Mr. Chairman, does Dr. Haythorne or Mr. Currie have any comment to make on the amendment?

The CHAIRMAN: Dr. Haythorne, do you have any comments?

Dr. HAYTHORNE: Mr. Chairman, I think we have made clear on several occasions the position of the department and of the Minister with respect to this. I think the Committee, perhaps, might be reminded though that this legislation was drafted not as overriding legislation but as complementary legislation. I think this is the key point, and if we were to follow the suggestion Mr. Barnett has made it would be at variance with the whole conception of the approach we have taken that this is really complementary to other quite important federal statutes which deal not exclusively but often quite specifically in these various statutes with matters concerning safety; matters concerning health; matters concerning the operation of equipment, atomic energy, for example, many areas where there has been action taken by parliament in order to take care of specific areas under federal jurisdiction.

So, when we approached the development of this legislation, we felt it was essential for us to recognize the existence of these other acts of parliament dealing with safety and the efficient operation of these other certain federal industries. We recognize in the legislation that safety measures are, in fact, being taken under these other statutes, but the important provision we think we have included in clause 3(3) does enable action to be taken under this legislation when action is not being taken under other existing statutes. In this sense, as both Mr. Currie and I have pointed out to the Committee, there is no exemption from the legislation. Now, this is a different concept though, from making the legislation overriding. It rather says that we recognize the existence of these other acts of the Canadian parliament over the years; we recognize that there has been and is very important work now being done under these statutes by various departments and agencies of government. What we want to do under this legislation is to make sure there are no gaps; that we fill all the areas in the legislation where there has been no action taken at all. We provide for that. But, we go even further and we say that even though there is legislation, if it is found that the action being taken is inadequate, or there is no action under the legislation, then we have the authority by order in council to take action even in those fields.

Mr. FAULKNER: In other words, even though the legislation as drafted here necessarily makes the powers of the bill complementary to existing regulations, you still have within the bill the authority to meet inadequacies within existing legislation in the safety field?

Dr. HAYTHORNE: Exactly.

Mr. FAULKNER: In other words, you are saying that the intent—as I assume Mr. Barnett's intent is—is to make sure that not only do you fill the vacuums but that you also have the power to deal with inadequacies within existing legislation and therefore I think the purpose behind his amendment is to make it overriding. You suggest the same purpose can be accomplished with the existing bill.

Dr. HAYTHORNE: That is right.

Mr. FAULKNER: The purposes in both cases are—

Dr. HAYTHORNE: Remember, Mr. Morris and Mr. Gibbons both said that if they could be satisfied that action could be taken under our bill to make sure that any gaps were closed or that action that had not been taken where they had been urging it to be taken in the past can in fact be taken under ours, then their opposition would certainly be essentially removed. I did not have the opportunity to say this to Mr. Morris but this is exactly what we have done. We have proposed action under the bill which not only closes the gaps but where there is evidence that there is inaction or lack of adequate action, then our representation is to act on it. If our inspectors determine that this is the case, then we can see that action is taken and taken quickly by order in council, if necessary.

The CHAIRMAN: Mr. McCleave has questions.

Mr. MCCLEAVE: Not questions, but could I make just three points and explain why I intend to vote against Mr. Barnett's amendment. First, I think the purpose of this legislation is to fill vacuums and not inadvertently create vacuums in the safety field. Second, it is probably important now that we do not put extra work on the department as it moves to fill certain vacuums. The third point, I think, though is that I hope there is going to be a real liaison between the Department of Labour and the departments of transport and national health which are the other two that come mind already in the safety field, and that some time, say after a five year period, an effort would be made to codify and put everything together in a much neater package.

The CHAIRMAN: Mr. Émard, would you wait a minute?

Dr. HAYTHORNE: If I might just comment on your second point first, which I think is a very important point. We have the full assurance of both these two departments you mentioned of the closest of co-operation. We have already had extensive discussions, Mr. Currie in particular, and other members of his branch, with both of these departments. I feel satisfied that we can move ahead as a team in this and the other departments concerned, including the Treasury Board. This comes back to Mr. Knowles' earlier point. We want to be sure that the safety provisions that are made for public servants are also adequate. We have an understanding, as Mr. Nicholson said to the Committee, that we will be the agency in the government who will follow up in these areas with the full support and approval of the Treasury Board.

On your last point, it seems to me that this is a suggestion that might very well be given serious consideration. It is very desirable that those of us who are working in this field know exactly where our authorities are and I would suggest, Mr. Ollivier, in answer to your comment, that if a code could be made within a reasonable time in this area it would receive our full support.

(Translation)

Mr. ÉMARD: Dr. Haythorne has just mentioned that this Bill would fill the gaps which exist at the present time. Therefore, I do not understand why it is decided in the same Bill to set up exceptions as mentioned for example in paragraph (3), subsection (3) of section (3) which says that this does not apply to ships or aircraft, etc. If this Bill is intended to fill gaps, why are there certain limits or restrictions as in this section?

The CHAIRMAN: Mr. Émard, are you speaking of the amendment at the present time?

Mr. ÉMARD: Certainly, it is on the amendment. This is what we are now discussing.

The CHAIRMAN: It is on this particular point that you are now discussing?

Mr. ÉMARD: Yes, Mr. Chairman, it is.

(English)

Dr. HAYTHORNE: Mr. Chairman, looking at the last clause, Mr. Émard, it is a fact that there are now statutes governing the operation of ships. There are separate statutes concerning the operation of trains and another statute dealing with aircraft. This goes back to my point that we have developed complementary legislation. If you look carefully at the wording of 3(3) you will observe that even though these acts are recognized as having the authority in these areas that we want for safety purposes—notwithstanding that fact—the Governor in Council may take action over and above or with respect thereto. That is what the words mean “except as the Governor in Council may by order otherwise.” You see it is in order to be satisfied that we can take action with respect to these statutes that they are brought in. That is the only reason. That is the purpose of 3(3), in order to bring them in and in order to make clear that they do act as the basic authority, unless action is taken by the Governor in Council, and authority is given by this act to the Governor in Council to take such action if it is deemed to be required.

(Translation)

Mr. ÉMARD: What I do not understand is, why is it only the Governor in Council who can intervene in such cases, why have these restrictions, why not leave it like in the other clauses. For instance with regard to trains and aircraft, etc. you can intervene directly, but in the case of transport, the only way in which we can intervene is as you have just mentioned, when the Governor in Council decides by Order in Council, because there are already special laws. I understand, Dr. Ollivier, that there are particular laws, but I am reading the explanatory note on page (4). You mention the Railway Act and the Shipping Act, the Aeronautics Act, which covers these points, but are there not any laws covering the other employees of the railways with regard to security?

(English)

Dr. HAYTHORNE: Mr. Chairman, no there are not and this is why we are very careful to say operations, as I have explained to the Committee. This bill would cover the other railway employees, the non-operational railway employees, who, as I said, are by far the most numerous of the railway employees. Mr. Émard, on

your first point, we are operating under this act under regulations approved by the Governor in Council. Under the other statutes which are already in existence those departments responsible for these acts also have regulations under which they are operating, and we have to go to order in council because an executive decision is necessary for any change in the regulations when two different agencies are responsible.

(Translation)

Mr. ÉMARD: What I do not understand is why there are limits and restrictions which do not permit you to intervene in a case of various acts, in the three cases mentioned just now, if I remember right, there have been certain reasons given and there were certain complaints also made with regard to the application of the legislation, in the particular case of the C.P.R. Now, if this bill was to give authority to intervene directly, would it not be better than having the restrictions which you are now imposing?

(English)

Dr. HAYTHORNE: Mr. Chairman, I think Mr. Emard is referring to the rather long standing difficulties over the application of safety regulations to some of the railway employees. This results, Mr. Emard, from confusion and uncertainty over how far their authorities go. This bill will remove that confusion completely, because we say that for non-operating employees we are taking the full responsibility. You are shaking your head, and perhaps you have a point, because I said "completely". In the long run I am sure it will.

In the short run we still have the problem, as I agree quite frankly, of getting clear where the authority of the Board of Transport Commissioners is going to stop, and where ours picks up. But again—and this is the virtue, I think, of the way the bill is now drafted—if there is any problem at all with respect to these borderline cases, then we are in a position to recommend to the government how action should be taken under this bill, and the confusion and the uncertainty then will be removed.

(Translation)

Mr. ÉMARD: Either?

(English)

Dr. HAYTHORNE: Either, sir. We can apply through order in council, when authority is required, for both operating and non-operating employees.

The CHAIRMAN: I have Mr. Barnett and then Mr. Guay. Mr. Barnett?

Mr. BARNETT: Mr. Chairman, I have listened to the discussion concerning the manner in which subclause (3) is to give authority by the Governor in Council to move in and fill the gap. I find myself perhaps even more puzzled by the manner in which this is put together. I am wondering why, in view of the arguments which Dr. Haythorne has been advancing, the application of subclause (3) is specifically limited to operating employees engaged on ships, trains or aircraft. If I understand correctly, the other legislation involved to which he has made reference is the Railway Act, the Aeronautics Act and the Canada Shipping Act. What about safety legislation made under other acts involving fields of employment other than the operating employees on railways, ships and aircraft? The opening words of subclause (1) read:

Subject to any other Act of Parliament.

I will put my question by way of an example. As this is drafted even the Governor in Council would have authority to move in to close any gaps that might exist under safety provisions enacted under the Explosives Act which is administered, if I understand it correctly, by the Minister of Energy, Mines and Resources, and of the Transport Act administered by the Minister of Transport in respect of the government wharf regulations which apparently have some sections dealing with the handling of unsafe cargo over federal docks.

The argument that has been advanced by Dr. Haythorne is that in these three specific fields where there is other existing legislation namely railways, ships and aeroplanes, operating employees can be covered by action of the Governor in Council. Now, what about situations outside of those three acts or the employees under the acts which are specifically referred to in subclause (3)? Even accepting the premise under which the argument is being advanced, how can the Governor in Council move in to close any gaps which may exist now or from time to time in respect of other fields covered by other legislation?

Dr. HAYTHORNE: The overriding consideration here is in clause 3 (1). Mr. Barnett is quite correct when he calls our attention to "Subject to any other Act of the Parliament of Canada and any regulations thereunder," and there are, aside from the acts I have referred to with reference to clause 3 (3) about 8 or 10 acts of the government which deal with safety in various other fields. Under this legislation we cannot propose changes in those other acts by order in council. All we can do under this legislation with respect to those other acts is to close the gap. Where action is not being taken under the regulations of those other acts we can, under this act, Mr. Barnett, automatically move in and take action, so there is no real problem there as far as the gaps are concerned.

The reason we have singled out these three acts in clause 3 (3) is to be sure that we are covering the non-operating employees under this legislation.

Mr. BARNETT: I cannot quite see how cover the non-operating employees by excluding the operating employees.

Mr. NICHOLSON: The operating employees are taken care of.

Mr. BARNETT: I will not argue the point in this connection.

(Translation)

The CHAIRMAN: Mr. Guay.

Mr. GUAY: Mr. Chairman, referring to Mr. Émard's question—

The CHAIRMAN: Would you, please, speak slowly, Mr. Guay?

Mr. GUAY: Yes.

The CHAIRMAN: Please?

Mr. GUAY: Does what is now law according to the other Act, conform to what is in the present bill and is there not a danger that these particular acts could be contrary to the bill which is now under study?

(English)

Dr. HAYTHORNE: Mr. Chairman, we would not say "contrary", but it is quite conceivable that there might be some instances of inadequacy or, as I said before, failing to deal with some aspects of safety which we feel must be dealt with in

the interests of this legislation and the preceding legislation, and we can, with the authority of this legislation, move in and take action without any further legislation or order in council, provided we have the appropriate regulations to deal with this under our act.

(Translation)

Mr. GUAY: Would it not be possible then that the other acts which are now exempt should be revised so that they should be more in conformity with the bill which is now under study?

(English)

Dr. HAYTHORNE: This is an alternative way to proceed. We felt, perhaps, that in order to be sure that this is really complementary and we were taking care of the weaknesses that may exist elsewhere, that the quickest way to get action would be to have the authority here to act. This does not mean though that it might not very well be action taken by some of the agencies or the departments concerned, if it seemed more appropriate under their specific acts. Mr. Nicholson, before you came in Mr. McCleave suggested that maybe within the next five years or so it might be useful to take a look at all federal legislation dealing in the safety field, with the idea of working out some practical consolidation, and we thought that this might be worth while examining. But I am just going to say that this might bring out, Mr. Guay, some of the points you have in mind.

Mr. NICHOLSON: I think there is actually a lot of merit in Mr. McCleave's suggestion. I might say that the Prime Minister recently asked me to chair a committee on safety involving some 6 or 8 departments of government and we are now forming that committee. I am sure it is the same idea that Mr. McCleave has in mind.

Mr. McCLEAVE: There is a lot of merit in it.

(Translation)

Mr. GUAY: One last question, to confirm what Mr. McCleave just said of my last question. It is this: would it involve a great deal of work to establish one single Act which would deal with safety in all fields?

(English)

Mr. NICHOLSON: It might. There are other dangers in it. The biggest danger that I see in it is in the difficulties that it would cause to the different groups that are involved. It would tend—as I see it—to fragment the representation process. We have got several groups in government each with different interests, and an amendment of this kind would, in my opinion, destroy the theory and practice of having appropriate units each put forward their own ideas. Now, I am not saying that out of a study such as Mr. McCleave has mentioned, some formula might not evolve. But, I certainly would not want to experiment with some new approach in this legislation until a study in depth has been made. It would mean that we would have to delay this legislation, I would think, for perhaps 2 or 3 years.

Dr. HAYTHORNE: May I make one or two comments on Mr. Guay's remarks. I think maybe the most important constructive step that is being taken here, Mr. Guay, on your point, is that this legislation will permit us to develop general standards of safety and the development of regulations of general application.

This is the positive step forward. I think, Mr. Nicholson you would agree, that this will have undoubtedly an impact right across the government service, and the agencies of the government.

The CHAIRMAN: Mr. Knowles.

Mr. KNOWLES: Mr. Chairman, we have been over this backwards and forwards several times, so I will not ask to go beyond the allotted 40 minutes with what I now have to say. In fact, I have boiled it down to three points and I will state them very quickly.

First of all, we do understand, despite the logic in reserve that Dr. Haythorne referred to, that this bill brings non-operating employees in railway shops, aircraft hangars, and so on, under its provisions. The second point I would like to make is that I think that Mr. Morris and Mr. Gibbons asked—now I have not got the text, I do not want to quarrel over a word—but I think it was not so much “could this be done under this legislation” as “would it be done”. Dr. Haythorne said they would be satisfied if it could be done. I think in all fairness to them they would be satisfied if they were sure it would be done. There is a slight difference between those two words.

The third thing I want to say—I am going to have a job filling my 40 minutes—is that when we talk about the gaps that you, the Labour Department may move into, we are concerned about Mr. Gibbons’ statement that they had been open since 1909, for some things, and we are concerned about the complaints, admitted by Dr. Haythorne, that the line has not yet been made clear so far as the Board of Transport Commissioners is concerned. There are still people who are in a gap—the gap is there, he has waited for 5 years to find it, it has been there for 56 years, and we think that because the gap is there, because experience has shown that the gap is there, that it should not be left conditional. We think that it should now come under the authority of your department, and that is why Mr. Barnett moved this amendment and that is why I supported it.

Mr. NICHOLSON: Well, I must say that I was impressed by Mr. Gibbons’ presentation, I was not here for all of it, but I heard most of it, and I also heard his presentation before the Senate committee. It is the intention, certainly of the Department of Labour, to see to it that these gaps are filled, but I more than seriously doubt whether you would fill the gaps by an amendment such as has been suggested here. It is an experiment. The fact that the job has not been done when it should have been done by another agency is not a reason why you should bring the Department of Labour in to do it at this stage. It is giving the Department of Labour a prong to prod with.

Mr. KNOWLES: But you are contradicting yourself, because if you say you should not be brought into it then how can—

Mr. NICHOLSON: I was going to say that we can if we need to. We now have a prong with which to work if we have to, under this legislation, we have not had it before.

(Translation)

Mr. ÉMARD: Mr. Chairman, from a practical point of view, what I have difficulty in understanding is the following. This bill is applied by the Department of Labour, it comes under its jurisdiction. And now you are introducing

certain exceptions where only the Department of Transport has jurisdiction. I am wondering why preference is given to the Department of Transport—why this preferential treatment?

(English)

The CHAIRMAN: Dr. Haythorne do you have any comments?

Dr. HAYTHORNE: I am sure Mr. Nicholson is well aware of the point of the statement I made earlier, that we are working in very close contact with the Department of Transport, and have been in the past and will be in the future in this area, Mr. Émard, and any action that we find that is not being taken under their present statutes, we can then see that proposals are made for action, for seeing that the sorts of things which have not been taken care of in the past, are in fact taken care of. The virtue of this clause is that it helps—perhaps in an indirect way,—but nevertheless it does ensure a cementing of the actions where this is needed under the two forms of legislation.

(Translation)

Mr. ÉMARD: I do not wish to prolong the discussion but there is a question which arises in my mind. Does the Department of Transport not have confidence in your department?

(English)

Mr. NICHOLSON: That is not the case, Mr. Émard, it is a case, if this amendment went through, of our having confidence in the Department of Transport. The Board of Transport Commissioners have been in there for a long time.

Mr. KNOWLES: And have not acted.

Mr. NICHOLSON: That is right, they have not perhaps taken the action that my department would like. We are not in a position to move in if they do not, we have never been in that position before.

The CHAIRMAN: Is the committee ready for the question.

Some hon. MEMBERS: Yes.

The CHAIRMAN: All those in favour please raise their hands. Those against.

I declare the amendment lost.

Mr. KNOWLES: Before you take the vote on the clause, may I make one other amendment, one other try at the same thing. I will not make a speech. I move, seconded by Mr. Barnett that clause 3 be amended by deleting therefrom subclause (3).

Mr. NICHOLSON: I think that would be worse, with all due respect to Mr. Knowles.

Mr. KNOWLES: We offered to compromise. You say you want a clause, and we will give you a real one.

Mr. NICHOLSON: We feel we have a clause.

The CHAIRMAN: It is moved by Mr. Knowles and seconded by Mr. Barnett that clause 3 be amended by deleting therefrom subclause (3).

Is the Committee ready for the question?

All those in favour, please raise their hands. Those against. I declare the amendment lost.

Clause 3 agreed to.

On clause 4—*Duty of employer.*

The CHAIRMAN: I have an amendment. It is moved by Mr. McCleave, seconded by Mr. Barnett, that clause 4 be amended by striking out the words "or reduce the risk of" in line 8.

Mr. MCCLEAVE: If I may, Mr. Chairman, I will speak very briefly on this.

I think the big protection in there is the word "intended". An employer has it if he does his honest best to prevent an accident; and even if one happens, if he can prove that his intention was there then he avoids being penalized in the courts.

Let us take it out of the realm of the fanciful and consider a practical event. Suppose one had a wharf that had rotten planks on it. There are two ways of obviating accidents under such conditions. One is to remove the rotten planks and put in solid planks. The other is to put up a sign which says: "Walk here at your own risk". I suggest that the employer should be told to replace the rotten planks and that this is done if he adopts procedures and techniques designed and intended to prevent employment injury. If the clause remains as is, and he puts up the sign saying: "Walk here at your own risk", then I suppose he could go into court and say that he took a step to reduce the risk of employment injury.

I do not think that is satisfactory, if it is your intention to have carried out exactly what you want to have within section 4. That is why I am moving that those words be deleted.

The CHAIRMAN: Dr. Haythorne, do you have a comment?

Dr. HAYTHORNE: Mr. Chairman, there would be no question that the owner of this dock, or the person responsible for the dock, would be obligated to remove those rotten planks. He is obligated under clause 4 (1) to carry on his business in such a way as not to endanger safety or health. I think there could be no real problem there.

I would like to go on and suggest that the intention of 4 (2)—where we deal, in the first part of the clause, with the use of reasonable procedures and techniques designed or intended to prevent employment injuries—generally relates to mechanical, technical, engineering, or other related technical aspects that have to do with operations; whereas the next clause reduces the risk of employment injury. We would have in mind here such things as the general and physical conditions; environmental factors, such as suppression of industrial noises; control of atmospheric conditions, such as lighting, ventilation and the temperature in which people work; the provision of sanitary or other facilities for personal well-being; and the reduction of exposure to harmful conditions. We would have in mind here, for example, development of what might be termed reasonable procedures to make sure that in the use of chemicals or other substances of a toxic character precautions are taken; that there is a low risk from fire; whether you can remove it altogether is a question, but certainly you

can expect people to reduce the risk of fire; to reduce the risk of explosion; to reduce the risk of exposure to harmful gases.

In the case of maternity protection, you could say that there have to be reasonable precautions taken where a pregnant woman is working in a plant.

These are the sorts of things we had in mind, which relate more to the conditions under which people are working than to the mechanical or technical aspects of a job.

I think it is important to keep in mind, too, that under clause 7, where we are given the authority to spell out, under regulations, the requirements or the standards which must be met, we will make sure that we go the whole way with you, Mr. McCleave, on the physical or the technical aspects of a job. If there are rotten planks, then they must be removed, as a prevention.

In the other cases to which I have referred we will have to draw our regulations in a slightly different way, recognizing that it is essential that employers reduce the risk wherever, and to the extent, that is possible. But to remove this entirely could I think, get us into problems of a practical nature; and if I may refer again to our discussion at the last meeting, I think possibly it could expose us to difficulties in courts, where it might be said that this was a very unreasonable kind of action to take.

Mr. McCLEAVE: If I could make a brief comment on that, Mr. Chairman. I am afraid that by keeping the "or reduce the risk of" you encourage some employers to take the negative step of for example, the posting of sign rather than the taking of a positive step to improve the environment or the working conditions.

Mr. NICHOLSON: I think this is a point well taken, I must confess that when I saw the bill, Mr. McCleave, I was confused by the difference between the two subsections.

Mr. HYMMEN: Mr. Chairman, I would like to ask Dr. Haythorne a question. We all know that the intent of the bill is accident prevention and thereby employment injury and loss of life. I would like to ask why the drafters of the bill left out the word "accident" after the word "prevent"? I think this would clarify the whole situation very greatly.

Dr. HAYTHORNE: Under 2 (a) "employment injury". As you will understand, "employment injury" means personal injury, caused by an industrial accident.

The CHAIRMAN: Is the Committee ready? Mr. Knowles.

Mr. KNOWLES: Dr. Haythorne makes a pretty good case, but I think he overlooks the fact that already in the clause are qualifying words such as "reasonable" and "intended". The person operating federal works and so on is only required to carry out reasonable procedures; they are not absolute; and they shall be intended to do such and such. I think, therefore, that it would not hurt to tighten it up a little bit, which is all that Mr. McCleave's amendment proposed to do.

Dr. HAYTHORNE: Mr. Chairman, could we say on this subject to Mr. Nicholson's concurrence, that we would, in our regulations, take these observations into consideration and make sure that in our regulations we do the kind of tightening up that I was suggesting.

Mr. NICHOLSON: I am so much in agreement with you that I have already practically said that. I think it can be done by regulation because I think Mr. McCleave's point is a good one.

Mr. KNOWLES: A vote for Mr. McCleave's amendment, that would be rather telling.

Mr. NICHOLSON: Well, I would hope we would not have to go back to the Senate, if he was even to stick one word in; you would. I would like to get this legislation through before Christmas. It has been overdue now for about a year; it was promised over a year ago.

Mr. McCLEAVE: Mr. Chairman, on Mr. Barnett's point, the main thing was to get the show on the road, and if I have consent I will withdraw the amendment.

The CHAIRMAN: Is there consent to Mr. McCleave withdrawing his amendment?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Shall clause 4 carry?

Clause agreed to.

The CHAIRMAN: There are more amendments to clause 3. Shall clause 7 carry?

On clause 7—*Regulations*.

Mr. BARNETT: There is a point I would like to raise under clause 7. It was put at the time because of a consequential amendment. If I might make reference—and I had to search to find this—to 7(1)(1). This whole clause has to do with the authority to make regulations for various purposes under the act. But subclause (1) concerns the making of regulations respecting the reporting and investigation of accidents and dangerous occurrences. The concern I have is, what rights are going to be set forth—and they are not specifically set forth as far as I can find in the act—with regard to individuals who are prepared to take the initiative in reporting to safety officers the existence of unsafe conditions. Now, I take it that the idea of regulations under 7(1)(1) will enter into this field. I wonder if we could have some explanation of what is in mind in this connection.

Now, the reason I raise the point is that I think this should be clear. I could—if I wanted to take the time—cite examples in the past under areas in provincial jurisdiction, where there has been direct or indirect intimidation against individual employees drawing to the attention of, say, the inspector, certain conditions. Or I could cite examples where skilful management has been able to whisk safety inspectors in and out of their premises before any of the employees really knew they were there. In my experiences, in cases where there are fairly well organized union bodies with safety committees, and so on, this is a declining situation. Nevertheless, the question is: is it the intent in the regulations made under this clause to set out clearly the rights of individuals in such a way that it would be fairly sure that no individual will be—or can be—legally intimidated; or to make it clear that the inspectors in the course of inspecting premises must not only consult employers in their examination, but also employees. This has been a matter, I know, certain jurisdiction of considerable dispute and contention in the past, in order to establish employee rights. I am

thinking particularly at the moment of the Workmen's Compensation Act in the province of British Columbia.

Mr. McCLEAVE: Is this not covered by clause 20?

Mr. BARNETT: I think this point should be set out clearly.

Mr. NICHOLSON: It is covered in 20(1).

Mr. BARNETT: This point should be set out clearly in our proceedings so that we have a clear understanding of just what the intention is, and just how the points I have made will be considered in the regulations or how they are considered in the bill.

Dr. HAYTHORNE: Mr. Chairman, Mr. Currie could make a comment; I think 14 is also applicable.

The CHAIRMAN: Mr. Currie?

Mr. CURRIE: Thank you, Mr. Chairman. Regarding 7(1)(1), the main reason for this provision is that at the present time there is no standard method employed in Canada for the reporting of industrial accidents. We want to be very certain that our accident prevention program gets off on a sound basis; that when we talk about an accident we know what we mean by the term. There will be specifications laid down under this under which employers will be required to give certain types of information in a standardized form according to accepted definitions and other norms. This really will get away from the discrepancies that now exist among the different provinces, in the way that accidents are reported to compensation boards, for example.

Under clause 14(3) we foster, I think, the encouragement of employees to discuss with the safety officer when he makes his rounds the matters that may concern that individual employee. Under clause 20 subclause (1) there are very strict penalties for any employer who may try to intimidate an employee because he has co-operated with a safety officer. Apart from all those things, as we now receive many representations from individuals in the administration of other statutes, they would be free to write to the department, or any of the safety officers at any time bringing to their attention—anonously even, if necessary—conditions with which they are concerned and about which their employer apparently has not yet seen fit to take any action.

Mr. NICHOLSON: Mr. Chairman, what I had in mind when I referred to clause 14, was not just subclause 3 which says that a safety officer may at any reasonable time enter upon any property and may question any employee apart from his employer. Then if you look at subclause (5), there is an obligation on every employer and every person employed to give the safety officer all reasonable assistance in order to answer questions. And then you have clause 20(1) which says if they do not do it, it is an offence.

Mr. BARNETT: My concern in part arose from the fact that as I read some of these clauses the general tenor of them seemed to be that the initiative of approach lay in the hands of the safety officer rather than in the hands of the individual approaching the safety officer. I felt that this should be brought out and perhaps kept in mind when the details of the regulations are being drafted.

(Translation)

Mr. ÉMARD: Mr. Chairman, just for information, I would like to know, in the case where a union wishes to lay complaint with regard to safety conditions, must it apply, must it follow the established procedure or go to the safety officers, according to this bill?

(English)

Mr. NICHOLSON: I would think it would go either way.

The CHAIRMAN: Shall clause 7 carry?

Some hon. MEMBERS: Carried.

Mr. KNOWLES: As we amended it here today?

The CHAIRMAN: Yes.

Clause, as amended, agreed to.

Mr. KNOWLES: So it does have to go back to the Senate.

An hon. MEMBER: What was amended? How was it amended?

The CHAIRMAN: I was just going to tell the Committee that on the last sittings the Committee has accepted amendments to correct clerical and printing errors. I have been told by Dr. Ollivier that we did not need to do it; so I thought maybe Dr. Ollivier could comment on this before we move an amendment to retain the amendment.

Mr. OLLIVIER: I do not think there is any difficulty there. In the case of clerical corrections, I have the authority—and I have been doing it all the time—to make those corrections when the bill is reprinted. In the case of this bill, of course, it will be reprinted only for the statutes.

On the other hand, if we have to send an amendment like that to the Senate, we have to wait until they sit, then wait until they send back another message. I do not think it is necessary at all. For instance, I have other bills in front of me, like the Bank Act, for instance where there are going to be perhaps 50 amendments. On the side of that, in those bills, I have something like 30 or 40 amendments myself which I will make which will not even come before the Committee. These are purely clerical corrections such as putting in a comma, taking out an “and” in this case.

Mr. KNOWLES: Could I come and see you some day?

Mr. OLLIVIER: Sure you can.

Mr. KNOWLES: I have some bills I would like to get changed just slightly.

Some hon. MEMBERS: Hear, hear.

Mr. OLLIVIER: I will tell you how far I can go.

Mr. McCLEAVE: Mr. Chairman, I just wanted to say that we somehow anticipated Dr. Ollivier's clerical correction in clause 7 (1) (f).

The CHAIRMAN: Mr. McCleave, would you be ready to move an amendment as follows:

That the amendments to clauses 7 and 10 of Bill S-35 made on Thursday, December 8, 1966 be considered as corrections of clerical and printing

errors and that they not be reported back to the House but drawn to the attention of the Parliamentary Counsel and the law officers by the Clerk of the Committee for correction.

Mr. McCLEAVE: I so move.

Mr. REID: I second the motion.

Motion agreed to.

Clause 1 agreed to.

Title agreed to.

The CHAIRMAN: Shall I report the bill?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I would like to thank Mr. Nicholson, Minister of Labour, and the officers of the Department, Dr. Haythorne and Mr. Currie, and all the witnesses who were kind enough to make representations to this Committee. I would like to thank also the members of the Committee for their good co-operation.

If there is no other business we will now adjourn to the call of the Chair.
Merry Christmas to all.

Some hon. MEMBERS: A merry Christmas.

HOUSE OF COMMONS
Second Session—Twenty-seventh Parliament
1968

STANDING COMMITTEE
ON
Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 1

RESPECTING
Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

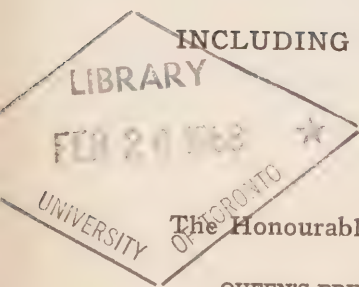
FRIDAY, JANUARY 26, 1968
THURSDAY, FEBRUARY 1, 1968

INCLUDING FIRST REPORT TO THE HOUSE

WITNESS:

The Honourable J. R. Nicholson, Minister of Labour

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968



STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT
Chairman: Mr. Hugh Faulkner
Vice-Chairman: Mr. René Émard
and

³ Mr. Allmand,	Mr. MacInnis (<i>Cape</i>	⁵ Mr. Munro,
Mr. Clermont,	<i>Breton South</i>),	⁶ Mr. Nielsen,
Mr. Duquet,	Mr. Mackasey,	² Mr. Ormiston,
Mr. Gray,	Mr. McCleave,	¹ Mr. Patterson,
Mr. Guay,	Mr. McKinley,	Mr. Racine,
Mr. Hymmen,	Mr. McNulty,	Mr. Régimbal,
Mr. Knowles,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
⁴ Mr. Lewis,	<i>North and Victoria</i>),	Mr. Ricard—(24).

Michael A. Measures,
Clerk of the Committee.

¹ Replaced Mr. Johnston on June 23, 1967.

² Replaced Mr. Skoreyko on October 6, 1967.

³ Replaced Messrs. Fulton and Tardif on January 24, 1968.

⁴ Replaced Mr. Barnett on January 29, 1968.

⁵ Replaced Mr. Lachance on January 31, 1968.

ORDERS OF REFERENCE

HOUSE OF COMMONS,
FRIDAY, May 19, 1967.

Resolved,—That the following Members do compose the Standing Committee on Labour and Employment:

Messrs.

Barnett,
Clermont,
Duquet,
Émard,
Faulkner,
Fulton,
Gray,
Guay,
Hymmen,

Johnston,
Knowles,
Lachance,
MacInnis (*Cape Breton
South*),
Mackasey,
McCleave,
McKinley,
McNulty,

Muir (*Cape Breton North
and Victoria*),
Racine,
Régimbal,
Reid,
Ricard,
Skoreyko,
Tardif—(24).

FRIDAY, June 23, 1967.

Ordered,—That the name of Mr. Patterson be substituted for that of Mr. Johnston on the Standing Committee on Labour and Employment.

FRIDAY, October 6, 1967.

Ordered,—That the name of Mr. Ormiston be substituted for that of Mr. Skoreyko on the Standing Committee on Labour and Employment.

TUESDAY, December 5, 1967.

Ordered,—That the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act, be referred to the Standing Committee on Labour and Employment for consideration.

WEDNESDAY, January 24, 1968.

Ordered,—That the names of Messrs. Nielsen and Allmand be substituted for those of Messrs. Fulton and Tardif on the Standing Committee on Labour and Employment.

MONDAY, January 29, 1968.

Ordered,—That the name of Mr. Lewis be substituted for that of Mr. Barnett on the Standing Committee on Labour and Employment.

WEDNESDAY, January 31, 1968.

Ordered,—That the name of Mr. Munro be substituted for that of Mr. Lachance on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

REPORT TO THE HOUSE

JANUARY 30, 1968.

The Standing Committee on Labour and Employment has the honour to present its

FIRST REPORT

Your Committee recommends that, for the purpose of hearing witnesses,

- (a) it be authorized to sit while the House is sitting, and
- (b) its quorum be reduced from 13 to 9 members.

Respectfully submitted,

HUGH FAULKNER,
Chairman.

(Concurred in: February 2, 1968.)

MINUTES OF PROCEEDINGS

FRIDAY, January 26, 1968.

(1)

The Standing Committee on Labour and Employment met this day at 10:16 a.m. for purposes of organization.

Members present: Messrs. Allmand, Barnett, Clermont, Faulkner, Gray, Hymmen, Knowles, Mackasey, McCleave, McKinley, McNulty, Patterson, Muir (*Cape Breton North and Victoria*), Ormiston, Reid—(15).

Also present: Hon. J. R. Nicholson, P.C., M.P., Minister of Labour.

The Committee Clerk attending and having called for nominations. Mr. McCleave moved, seconded by Mr. Clermont, that Mr. Faulkner be Chairman of this Committee.

On motion of Mr. Reid, seconded by Mr. Clermont,

Resolved,—That nominations be closed.

Mr. Faulkner, having been elected as Chairman, took the Chair and thanked the Committee for the honour conferred upon him.

The Chairman read aloud the Committee's Order of Reference dealing with Bill C-186. (See Orders of Reference in this Issue).

Mr. Reid moved, seconded by Mr. Gray, that Mr. Émard be Vice-Chairman of this Committee.

On motion of Mr. Reid, seconded by Mr. Clermont,

Resolved,—That nominations be closed.

Thereupon, Mr. Émard was elected as Vice-Chairman.

On motion of Mr. Gray, seconded by Mr. Clermont,

Resolved,—That the Committee print from day to day 1,000 copies in English and 500 copies in French of its Minutes of Proceedings and Evidence.

On motion of Mr. Mackasey, seconded by Mr. Barnett,

Resolved,—That the Chairman appoint a Subcommittee on Agenda and Procedure, to consist of: the Chairman, the Vice-Chairman, and 3 other members of the Committee.

On motion of Mr. Reid, seconded by Mr. Gray,

Resolved,—That the Committee recommend to the House that, for the purpose of hearing witnesses,

(a) the Committee be authorized to sit while the House is sitting,

(b) the Committee's quorum be reduced from 13 to 9 members.

At 10:30 a.m., the Committee adjourned to the call of the Chair.

THURSDAY, February 1, 1968.

(2)

The Standing Committee on Labour and Employment met this day at 9:43 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Allmand, Clermont, Duquet, Faulkner, Gray, Guay, Hymmen, Knowles, Lewis, Mackasey, McCleave, McKinley, Ormiston, Régimbal, Ricard—(16).

In attendance: The Honourable J. R. Nicholson, Minister of Labour; and *from that Department:* Mr. B. Wilson, Assistant Deputy Minister, Labour Relations; Mr. J. L. MacDougall, Director, Employee Representation Branch and Chief Executive Officer, Canada Labour Relations Board.

It was agreed that the possibility of increasing the membership in the Subcommittee on Agenda and Procedure be considered by that Subcommittee.

The Chairman reported that the members of the Subcommittee, with himself and the Vice-Chairman, Mr. Énard, are: Mr. Gray, Mr. McCleave, and Mr. Lewis.

The Chairman presented the First Report of the Subcommittee as follows:

Having met last Tuesday, January 30th, on the matter of Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act, your Subcommittee recommends as follows:

- (a) that following the Minister's appearance before the Committee today, other witnesses be scheduled starting Thursday, February 15th;
- (b) that the deadline for the filing of briefs with the Committee be February 20th;
- (c) that those filing briefs be encouraged to do so in both official languages, preferably 50 in English and 50 in French, with the qualification that it is desirable but not mandatory to do so;
- (d) that the Chairman be empowered to schedule witnesses and to consult with them to coordinate their oral statements so as to avoid unnecessary duplication;
- (e) that each witness, or chief spokesman, when appearing before the Committee, first present an oral summary, so as to leave ample time for answering questions with perhaps the assistance of supporting witnesses, this in view of the opportunity which members will have had to study each written brief, in detail, beforehand.

Following upon a suggestion of Mr. Lewis, it was agreed that sub-paragraph (c) of the Subcommittee's report would read: —that those filing briefs be encouraged to do so in both official languages, preferably 50 in English and 50 in French, but in any case, in at least 50 copies in one official language if possible.

On suggestion of Mr. Mackasey, it was agreed that sub-paragraph (a) of the Subcommittee's report would read: —that following the Minister's appearance before the Committee today, witnesses from the Department of Labour be scheduled starting Thursday, February 8th.

It was agreed that the Subcommittee's First Report, as amended, be adopted.

The Chairman introduced Mr. Nicholson who gave a statement on the matter of Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

Mr. Nicholson was questioned, assisted by Messrs. Wilson and MacDougall.

With the questioning continuing, at 10:55 a.m. the Committee adjourned to the call of the Chair.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 1, 1968

The Chairman: Gentlemen, first of all, I have been asked to request that you all become microphone-conscious. When you speak it would be appreciated if you would do so into the microphone. Apparently some difficulty arises if this is not done.

The first item of business is to consider a request for authorization to increase by two the number of members on the Steering Committee. We have had some discussion with members of other political parties, and there is a desire to be on the Steering Committee. May I have that authorization? The previous authorization was for a committee composed of the chairman, the vice-chairman, and three members. If the Committee agrees may I have authority to increase that to five?

An hon. Member: This increase of two will come from what party?

The Chairman: I think they would come from the Social Credit party and the Créditiste party.

An hon. Member: Mr. Chairman, I have a comment on a matter which you may want to refer for further study to the existing Steering Committee.

I am not averse to having these parties represented on the Steering Committee, but it is customary, in making up steering committees, for the supporters of the government to have, not necessarily a majority, but some preponderance on them, because of the support we have in the House. If you wish to retain this balance of the parties on the Steering Committee, it may be that we should increase it by more than two.

An hon. Member: You could raise it to thirteen?

The Chairman: What is the feeling of the Committee? I must say that I do not see the danger that my colleagues see in this.

Mr. Knowles: Seriously, Mr. Chairman, I wonder if there is that danger. It is not the

purpose of a steering committee to make decisions. If agreement is not reached in the steering committee the issue comes back to the main committee.

An hon. Member: It is not a question of gain; it is a question of principle. The Créditiste and the Social Credit parties have been allocated rights according to their numerical strength in the House of Commons. This has always been the policy.

I have no objection to their being on the Steering Committee. I am merely asking what effect it will have on this apportionment of members on it, or on any other committee. This problem spills over to the number of speakers in the House of Commons itself. It is for that reason that I do not wish to see any deviation from the set procedure. I simply want to know what it will do to the normal ratio.

The Chairman: Rather than pressing this point at this stage perhaps I should take it up again with the Steering Committee so that we do not delay the proceedings today.

I will withdraw the first item of business.

The second item of business is the report of the Steering Committee. The members of the subcommittee, or Steering Committee, are: myself, the Vice-Chairman, Mr. Énard; Mr. Gray, Mr. McCleave and Mr. Lewis. I will read the report: (See Minutes of Proceedings).

That, gentlemen, is the report of your Steering Committee. Is there any discussion?

Mr. Lewis: You say, "This is desirable but not necessary." The way you have it now that phrase qualifies both, the two languages and the 50 copies. I do not think you intended that. I think we wanted 50 copies of the brief because the question of having them in both languages was not made mandatory.

The Chairman: Yes, I think that is done. Do you want to revise this part right now, Mr. Lewis, or do you want to leave it with me to make the change?

Mr. Lewis: I will leave it with you. I just thought I would draw it to your attention so there would be no misunderstanding later.

The Chairman: Yes, that is right. I will make that change.

An hon Member: The main thing is to see that the letters going out are proper.

The Chairman: Yes. Mr. Mackasey?

Mr. Mackasey: I want to suggest a change and I am quite prepared to make a motion to this effect if necessary, that the date of the next meeting be changed from the 15th to the 8th of February. I understand the problem the Steering Committee faced was accommodation and also adequate translation facilities owing to the heavy demands of the federal-provincial conference. I understand that a room will be available, if the Committee so desires, on the 8th of February with all the necessary equipment for translation. The reason I am making this suggestion is that under normal circumstances the House of Commons will perhaps adjourn sometime in March. We do not want to deny anybody the right to appear before the Committee, within reason. We also do not want to have to report to the House at the last moment. I would therefore suggest, Mr. Chairman, that the date be changed from the 15th to the 8th, and that the witnesses be Mr. MacDougall, executive officer of the Canada Labour Relations Board who is attached to the Department of Labour, and Miss Lorentsen, head of the Legislation Branch, or someone whom she may designate, for a legal opinion.

The Chairman: Has everyone got those names? All right.

Mr. McCleave: Mr. Chairman, I take it a request was advanced by certain people to the Steering Committee that we not meet on Tuesday the 13th because of the appearance of a major labour organization.

The Chairman: There will be no meetings on the 13th.

Mr. McCleave: That is acceptable.

Mr. Lewis: Is it understood that the meeting on the 8th will be limited to officers of the department? I do not think it would be fair to ask any organization to prepare their brief, and have it translated and copied by the 8th.

Mr. Gray: I do not think Mr. Mackasey was suggesting that. I think he was recom-

mending that the Committee hear witnesses who could provide us with useful information.

The Chairman: Mr. McNulty?

Mr. McNulty: Did you want to hear discussion on this suggested change?

The Chairman: We can schedule the meeting in the afternoon if necessary.

Mr. Knowles: You still have to get the report through the House.

The Chairman: We will take that chance. All right. Is there any comment on the suggestion made by Mr. Mackasey? May we have consent on that?

We will meet in the afternoon of the 8th, if that is agreeable to the Committee, to hear witnesses from the Department of Labour. Is that agreed?

Some hon. Members: Agreed.

Mr. McNulty: The comment Mr. Lewis made, Mr. Chairman, concerned the printing of the briefs submitted. Do I understand correctly that they will only be printed either in French or English and not necessarily in both languages?

The Chairman: I think the position which the Steering Committee took was that we would encourage the submission of briefs in English and French but we did not feel—I think I am interpreting the Steering Committee's views correctly—we could make that mandatory. In the event that a group cannot present a brief in one or other of the official languages, we will do our best to provide the translation here. Is that the position of the Steering Committee?

An hon. Member: But there will be a translation?

The Chairman: There will be a translation but I will try to encourage the witnesses to do the translation themselves.

Mr. Gray: I think what the Steering Committee had in mind was some knowledge of the burden of work carried by the Translation Bureau of the Secretary of State, and I think it was the intention of the Chairman of the Steering Committee to make sure that the texts of the briefs were available to members in either of the two official languages, but if

possible the groups presenting them would be encouraged to have tests in both. However, if this was not possible, obviously we would make use of the facilities of the Translation Bureau.

There is another point, Mr. Chairman, which I think is relevant to this matter. I believe it is understood that the briefs will be distributed to members for study in advance of the appearance of the witnesses so that their views can be considered before the date set for their appearance.

The Chairman: When that is not possible the witness will be asked to read the brief. The witness will only be expected to summarize the brief when the brief is in the hands of the members beforehand. We will try to do that as much as possible. Is there any further comment on the Steering Committee's report? Is it agreed that this report as amended be adopted?

Some hon. Members: Agreed.

The Chairman: We have the Minister of Labour with us, the Hon. J. R. Nicholson, who will be the first witness before the Committee. Mr. Nicholson.

Hon. J. R. Nicholson (Minister of Labour): Mr. Chairman, I have with me the Assistant Deputy Minister, Mr. Bernard Wilson, whom I think is known to most members of the Committee. Mr. Wilson is a former executive director of the Canada Labour Relations Board and is the assistant deputy minister in charge of the Labour Relations Division of the Department.

Mr. MacDougall, also an official of the Department of Labour, is the present Executive Director of the Canada Labour Relations Board and when we get into the mechanics of the operation, one or both of these gentlemen may have to answer the questions rather than the Minister. The Chairman has already intimated that Mr. MacDougall may be called as a witness at next week's meeting to go into the mechanics of the operation of the Board.

Mr. Chairman and Members of the Committee, at the outset may I, as the Minister of Labour and as a member of the government, say that I welcome this opportunity to outline and explain to you, a multi-party Committee of the House, the government's reason for introducing Bill No. C-186 into the House and the Minister of Labour's reasons for referring the subject matter to this Committee even

before second reading of the Bill. You will recall there was some difference of opinion on that score but my recommendation was, having regard to the nature of the Bill and in line with the precedent that has been followed on rare occasions, that the subject matter of this bill should be referred to a Committee of the House rather than being dealt with in the usual way by second reading and then followed by a clause by clause discussion. The reason I welcome this opportunity to say this is because there has been a great deal of comment about this in the press and in the other news media of late. Much of it has been good, much of it has been highly emotional, and in certain instances some of it has been misinformed. This exchange went on almost continuously even prior to the introduction of the bill on December 4 last. The Bill has been described, depending on the coloured glasses that you look through, as ill-conceived and divisive by some people and by others as constructive and absolutely essential, and I sincerely hope, Mr. Chairman, that the hearings before this Committee and the frank discussions which a hearing of this nature ensures will tend to dispel the doubts and fears that have been expressed.

Perhaps it might be helpful if at the beginning of my remarks I were to summarize the history and the past experience of the Industrial Relations and Disputes Investigation Act and the history and operations of the Canada Labour Relations Board. The Act is commonly known as the I.R.D.I. Act (Industrial Relations and Disputes Investigations Act) and you may find me or my officials frequently using that term because we use it so often it is pretty hard to get away from it. This Act came into effect September 1, 1948 and the Canada Labour Relations Board was established under that Act. Perhaps I should point out that it was really established as a successor organization of the Wartime Labour Relations Board, a board which served Canada well during the war and during the immediate post-war years.

The Canada Labour Relations Board administers many of the provisions of the I.R.D.I. Act. They, for instance, administer the provisions that deal with the certification of bargaining units. For example, they decide the nature of the body that applies to be recognized as a bargaining unit for a group or class of employees, and they pass on the appropriateness of that unit. They also have

the right to revoke certifications that they may have approved, and of course they continually review their earlier decisions. The Board has other duties. If one party or another to an industrial dispute complains that the other party failed to bargain collectively in good faith they can report to the Minister and the Minister of Labour in turn can refer such a question to the Board. That of course does not enter into the consideration of this Bill. We are really more concerned with the procedures that lead up to the certification and the decision as to the appropriateness of collective bargaining units. At least that is how I view the work of this Committee.

As you perhaps know the Board consists of a Chairman, one Vice-Chairman and eight members, and it is what is commonly called by lawyers and others a representation board. Four members of the Board represent management and four represent labour. The only member of the Board who acts in the public interest, if I could put it that way, as distinguished from a representative member, is the Chairman. The Vice-Chairman, I might say, participates only if the Chairman is not available because of illness, absence, leave, or some other reason, and when the Chairman is away for any reason the Vice-Chairman acts as the presiding officer, and that is his only function.

I might say this Board differs from the boards in certain other countries. Primarily it differs from the Labour Relations Board in the United States, and I will have more to say on that later. In the United States all members of the Board are public interest members as distinguished from representative members.

The original appointments of the representatives of labour and of management to the Board back in 1948 followed an historic pattern based on the practice during the war years. There were four major labour groups during the war years and the pre-war years: the old Trades and Labour Congress of Canada, the Canadian Congress of Labour, the railway unions, and the Catholic Confederation of Trade Unions which functioned primarily in the Province of Quebec. It is true there were other organized groups in Canada but the four groups that I have just mentioned were the major organized labour groups in Canada during the war, pre-war and the immediate post-war years.

When the Board began to function in 1948 representation was exactly the same as on the

wartime board. In other words, the Trades and Labour Congress of Canada nominated one representative, the railway unions nominated one, the Canadian Congress of Labour nominated one, and the Catholic Confederation of Trade Unions nominated the fourth.

Then, as you know, in 1956 the Trades and Labour Congress, the Canadian Congress of Labour, most of the railway unions and other unions—I can think of one that I used to have some dealings with when I was with Polymer Corporation, the oil and chemical workers, who were associated with another body in the United States, the oil, chemical and atomic workers—later came together and formed the Canadian Labour Congress.

During the intervening twelve years there has been no change in the representation on the Board. There have been no amendments of consequence to the I.R.D.I. Act and Regulations, during that intervening period of 20 years. I can say at the outset, without fear of contradiction, having had occasion to inquire into the words of the Canada Labour Relations Board and its predecessor board, that the different men who have served as chairman and as members of that Board have served the people of Canada conscientiously, and while there is some criticism on occasion I will think the people of Canada are very much in the debt of this distinguished group of Canadians who have served on this Board from the time of its conception up to the present time.

In view of my statement, that the members of the Board, both the management representatives and the labour representatives, have served Canada well, I now must address myself to the first problem and outline to this Committee the changes in circumstances which have prompted the government to propose the amendments to the Act that are set out in Bill C-186.

There are two changes in circumstances, one of which, in the opinion of the government, is of much greater significance than the other, and for that reason I will deal with the less important first. The number of applications to the Board during the years 1964 through early 1967—it does not apply so much to the last few months—increased markedly. By 1966, for instance, applications had increased by somewhere between 40 and 45 per cent over what they were a few years before. Now perhaps that is understandable because there had been, as far as labour was

concerned, some pretty difficult years, particularly the years 1957 through 1964 when their share of the benefits of Canada's productivity were considered to be inadequate and unfair. Recalling some figures that came over my desk some three or four weeks ago, if my memory is correct between 1957 and 1964 on a unit basis wages went up 3 per cent per unit whereas profits went up 18 per cent. It was not surprising, therefore, at least not to me, when conditions began to improve in late 1962 and early 1963 that there should be much more union activity with a view to seeing that what labour considered unfair distribution of the operating results were corrected.

So there was an appreciable increase in the number of applications during this period, 1964 through 1966, and it extended into early 1967. This resulted in some additional work for the Board as you might expect. But at that—this was pointed out during the debate at the resolution stage on first reading of this bill—the Board still only sits a few days a month; I think it works out now to about three days a month.

The obvious solution to correct this matter would be to increase the number of sittings. But it is not quite as simple as that. Of the eight representation members of the Board, most of them are busy men; five of the eight have full-time careers of their own including the labour representatives, and one or two of the representatives of management. I think we are fortunate to have this type of experienced men serving at no small inconvenience to themselves. Demands on their time are heavy. Taking even three days a month out of the time of busy men results in inconveniences.

There have been occasions when members have not been able to attend at the last minute, and others who have attended have had to leave. Now, that is not one of the more significant reasons, but nevertheless it is one reason for the changes here which are designed to ease the pressures on the eight representative members of the Board.

However, the other change that I, for want of better language would refer to as the more significant change in circumstances, arises out of the competition or, as many people say, the rivalries that you find in union activities today. I think it is fair to say that any person unfamiliar with the labour scene in Canada

knows that in recent years a very—I do not know what adjective to use—fierce struggle, as I have heard it said—that is one word that has been used—has been going on for the support and for the loyalties of the unionized workers. Again, I would be less than frank if I did not say this rivalry has been much more noticeable in the Province of Quebec than in most other parts of Canada.

The organization that I referred to earlier—the Catholic Confederation of Trade Unions—has now changed its name and is commonly known as the CNTU; it is the Canadian National Union of Workers. They have been carrying on an aggressive membership campaign as they are entitled to do. Just to give you some comparative figures, some 12 or 13 years ago I think they had approximately 60,000 members, most of them in the Province of Quebec; but today they have approximately 250,000 members.

It is also true that the unions associated with the Canadian Labour Congress have increased their memberships enormously. They have gone from a little over a million people to approximately a million and a half, if my memory serves me right. So the ratio is six to one, but on a proportionate basis the increase from 60,000 to 250,000 which has taken place principally in the Province of Quebec is more noticeable.

It is understandable that the CLC would be just as active and just as aggressive in their fight to increase their membership as the CNTU. The rivalries have been strong. I have had representations, and so have my officials, from both of them. You have only to be present to realize that both sides are aggressive and take very firm and very definite stands.

The Canada Labour Relations Board is the body that is charged with the responsibility of certifying the union as the bargaining agent. They are the ones who finally have to be in it. Where the labour activities come within the federal sphere, basically in the fields of transportation, communication, dock-workers and things of that kind, the federal field is relatively restricted although it is opening up now and we have seen a lot more public servants coming into the area, and we find bank clerks and other coming in for certification. But to date it has been largely in the transportation and communication fields and in fields directly associated with transportation and communication. The Board has to make a decision as applications are made

by one side or the other—unions affiliated basically with these two bodies, the CLC or the CNTU—for certification.

Much of the work of the Board is mechanical, and Mr. MacDougall will have an opportunity to outline that to you at your meeting next week, so I will not take up your time with that end of it.

The aspect of their work to which I wish to refer this morning is the branch that involves the exercise of judgment and judicial discretion by the Board. The powers of the Board in this connection are set out in three sections of the Act, sections 7, 8, and 9. Basically the language is this, if I may summarize it: It is the responsibility of the Board when an application for certification comes before it to decide one thing. After the mechanics have been satisfied, if they have done their arithmetic and they are satisfied that the group making the application represents the majority of the members of the union or of the working body involved, then the Board has to say whether the unit applying for certification is an appropriate bargaining unit. What is appropriate, of course, depends on the circumstances.

Now, again, perhaps I am anticipating questions that some of you may put to me, but I think it appropriate, at this stage in your hearing for me to give you the history that immediately preceded the drafting and introduction of Bill C-186 in the House.

In 1965 the employees of the basically French language system of the CBC joined a union affiliated with CNTU. That union applied to the Canada Labour Relations Board to be certified as the appropriate unit to bargain collectively on behalf of the employees of the French language divisions of the CBC. There had been another union commonly known as the IATSE, the International Association of Theatrical Stage Employees, which had represented, basically, the electrical and stage employees, not all the employees of CBC, but the electrical and stage employees in the entertainment side of CBC for several years. Naturally, IATSE opposed the application of this particular union—the CNTU affiliate—for certification. A hearing took place and in December of 1965, the board with one dissent, rejected the application of the CNTU affiliate and refused to change the designation of IATSE as the appropriate bargaining unit.

Representations were then made to the government in this building by the CNTU in their annual brief which was presented early in 1966, and they very definitely questioned the board's decision and openly took the position that there was bias on the part of the board because they were out-voted. Because of the historical set-up that I have given you, there were three representatives of the CLC on the board and only one from CNTU. If you will recall the figures I gave you of today's membership of approximately a million and a half—at that time it was approximately a million, two hundred thousand—members of the union affiliated with the CLC and a growing membership of 60,000 to 250,000—at that time I think it was approximately 190,000 of the CNTU—a membership of 3 to 1. If you look at it, it does not seem unfair. I could not help but think of this during your discussion in Committee this morning about how you were going to set up your Steering Committee. On the basis of representation, a division of 3 to 1 may seem unfair, but I think on analysis, being equally fair when it comes to making the decision, that regardless of whether the decision of the board which is serving in a judicial capacity—pronouncing judgment—the fact that you have 3 votes to 1 is not likely to convince those people, if they should lose out, that they have had a square deal. It is really as simple as that.

This situation has arisen in other countries, and the United States is a good example. Prior to the merger of the AF of L and the CIO unions there were three major groups in the United States. There was the AF of L and their affiliated union; there was CIO and their unions and there was also the oil and chemical workers, commonly known as the John L. Lewis group. They were in and out of the CIO-AF of L unions at different times, but there were at least three major bodies in the United States. I discussed this with the Secretary of Labour of the United States and others who have followed it and they told me they settled the situation by establishing, not a representation board, but a public interest board. They picked as members of the tribunal that will decide on the appropriateness of certification, men who, because of their experience, have a knowledge of labour management problems and who have established a reputation for fairness. These men are put on this tribunal as public interest members and not as representatives of either side.

In Canada, as a result of our wartime experiences, we followed the other course, and until this very intense activity began in the early 1960's there was no doubt that our system in Canada had worked well.

When the CNTU presented their annual brief, I think it was in March of 1966, it was agreed by the Prime Minister, as is always the case, that following the usual practice they would meet with the minister concerned. They met with the Minister of Labour; they insisted that a group of employees such as the French Language employees of the CBC had a right of association and they put forward, I think, persuasive arguments which would show that the French language system of the CBC is quite different from a division or unit of a transportation company. In the case of TV and radio, not only do the language considerations enter into it, but the historical, educational and cultural problems as well. These people have a mutuality of interest, as do all railway employees, all airline employees and dock workers, but because of the cultural educational aspects of this they felt they could make a much stronger case for being recognized as an appropriate unit than a group employed by one of the transportation companies.

We discussed their problem and they drew attention to the fact that in the Province of Quebec the situation had been changed and when they have disputes basically between unions affiliated with the CLC or the CNTU, the hearing takes place before a board; and a decision has to be made on which is the appropriate unit and that decision is made by the Chairman. The representation members of the Quebec Board do not participate in that decision except perhaps as assessors or advisors. The decision is made by the Chairman.

It was suggested to me that our Act should be amended in the same way. To be frank, I found it difficult to accept that philosophy or that suggestion. I felt that in a borderline case to give such a decision to one man would be unfair to the man himself and to both sides. I explored other alternatives. Would you not consider having a second vice-chairman appointed and, in the case of a dispute, having the chairman and the two vice-chairmen make the decisions? Naturally, having explored that situation with the spokesman or the executive of the CNTU, I believe I put it forward to the executive of the CLC the next day, and I had a meeting with the executive

of CLC. They felt that the Canada Labour Relations Board had worked well. They gave me some data on the activities of the board over a period of years, and they made it quite clear they would strongly resist any change in the Act, even a suggestion of the kind I had made that possibly the decision might be made by a chairman or the vice-chairmen.

I might add that the CNTU, after considering it for a week, were inclined to favour the suggestion that I had made or some modification of that course, but they were basically in agreement with the suggestion. It was not an offer which I made; I was trying to find a solution and I was putting forward these proposals in that vein. Then, because of this very strong position, and one can understand the viewpoint taken by the CLC and their unions I referred it to my colleagues in the Cabinet. An ad hoc committee of the Cabinet was set up and it was chaired by the senior privy councillor on the Committee, the Minister of Trade and Commerce. We invited the CLC and their affiliated unions, the CNTU and any other union bodies in Canada that had any ideas on the subject, to present their views and their arguments.

We met with each of the two large groups. The CLC group had a large delegation there which comprised a hundred members of their executive, and the CNTU also had a very large group. This was back in the late spring or early summer of 1966. I have the transcript of the representations that were made by the spokesmen for the two major groups. I might say that the teamsters also submitted a brief and they have a membership of about 40,000.

The transcript of these hearings became available—unfortunately there was some delay—in the fall of 1966. The government gave serious thought to it. In the meantime, as you might expect, the views of the ad hoc committee were given to the Cabinet and as a result of consideration extending over a period of several months following the hearing, we decided to introduce Bill C-186 to correct this principle. I can say in all frankness that we as a government feel this situation must be changed, because it is a well-known and established principle of jurisprudence in law that not only must justice be done but it must appear to be done.

When feelings are running high when there are three votes to one in a tribunal, you can readily understand the feelings of the people on the losing end, and basically that is the nub of the point before you.

Having said that that is the nub or the crux of the matter, I would like to ask another question about a representation board. The board is supposed to be representative of whom? It is supposed to be representative of labour and on a numerical basis. No one can question them on the division of the number of appointments.

However, I know, having practiced law for many years, that when there is any suggestion of a judge—even our judges who are appointed for life—having an interest in a case, either because of a past association or because of a relationship with the council appearing before him—I have seen that happen—it is not uncommon for a judge to disqualify himself on the grounds that the circumstance of the particular case might suggest that he may not be fair or absolutely independent.

As I say, labour and management are meant to balance each other, but when there is a dispute of this nature labour is not balanced; and, I am sure any fair-minded person will admit that. In a jurisdictional dispute or in a representational dispute no matter how fine a man a member may be, is it not highly probable that the philosophy that represents his thinking may influence his decision? I do not care whether it is the CNTU or the CLC. It may be that in a great many cases you can get unanimity, but in some cases the basic philosophy is bound to affect the mental approach of the man making the decision, particularly when you get radically opposed union groups.

So, when judges say they are not biased and still disqualify themselves, we feel, following the judicial precedent of the great British jurist, Lord Hewart, who said the important thing is that not only must justice be done, but manifestly—to the people appearing before them—it must seem to be done, then manifestly it must seem to be done. You will never be able to convince many thousands of people in this country—the membership of the CNTU alone is a quarter of a million people—that they are going to get the square deal they think they are entitled to, even though the decision of the judge or the tribunal might be right.

Having given that background, I hope I have been able to convince the Committee that we have made a strong case, in fact I would think an unanswerable case for correcting this situation. With great respect for the persons or organizations who may oppose

this change, and I have a close association and a friendship with many of them, I feel that we as a government had no alternative but to do what we have done and we are looking for favourable consideration of the subject matter of this Bill because, we, as a government are committed in principle to correcting a situation that we firmly believe needs correction. I hope that you feel the same way. We have no set view so long as we get the best results in the long run.

With that introduction, Mr. Chairman, I now will discuss the different clauses in the Bill, with our reasons for putting forward the five or six clauses that we have or, if you wish, I will answer any questions that members may like to put to me before going into the details.

The Chairman: I would like, if possible, to discourage questions but Mr. Knowles, Mr. Régimbal and Mr. Hymmen have indicated they have some questions.

Mr. Régimbal: I have just one question Mr. Chairman. The Minister gave us an historical outline of the Board. Just to make the record complete, because he went into some detail on the principle which governed the representation of Labour, I wonder if he could give us now, in case it might come up later, how management representation was made up?

Mr. Nicholson: Management representation has come in much the same way. The view and the recommendations of the Canadian Chamber of Commerce, the Canadian Manufacturers' Association, the railways of Canada and general industry are considered. We have a representative from the Canadian Construction Association, we have a representative from the Canadian Manufacturers' Association, we have a representative from the railways and we have one from the Canadian Chamber of Commerce.

Mr. Knowles: Mr. Chairman, you said you were going to discourage questions.

The Chairman: I said I was hoping to discourage questions but out of deference to your seniority—

Mr. Knowles: Why?

The Chairman: The Minister has given us statement and I think a question period this stage may be premature. However, I saw Mr. Hymmen raise his hand, and you have your hand up, so if you insist, go ahead, but

would really like to discourage questions at this time. If I may just clarify something, it is understood that we will have the Minister back with us on another occasion.

Mr. Nicholson: I might say it is my intention, Mr. Chairman, to give you as much time as you want today and when you resume on Thursday, February 8, of next week. I will be available if we do not finish today, and then Mr. MacDougall and my other officials will follow up. However, I intend to keep in very close touch with this Committee. There will be the odd day that I may not be able to be with you but I will do my best to be here at all sittings of this Committee.

The Chairman: Thank you. Do you want to ask a question, Mr. Knowles?

Mr. Knowles: Thank you, Mr. Chairman. I do not want to ask any special privilege or abuse my rights but I do have some questions. I realize that before too long we have to leave, and some of us have to return to attend another Committee.

Mr. Nicholson: Mr. Chairman, if you and Mr. Knowles will permit me, I want to correct a statement that has just been made. I said that we had the Canadian Manufacturers' Association, the Canadian Chamber of Commerce, the railways, and the Canadian Construction Association. We did have the Canadian Construction Association but as it is today there are two representatives of the Canadian Manufacturers' Association and the Construction Association is not represented on the Board.

Mr. Knowles: Mr. Chairman, I will confine myself to two questions, though like most questions there may be two parts to them.

First, Mr. Nicholson, although I may disagree with your position I must say that you deserve respect for the frankness with which you have stated your position and given the reasons for the decision the government made.

Am I correct in stating that the CNTU has appealed to the government to make changes, that the CLC and others have appealed to the government not to make changes, but as you have not been able to get these two groups to reach an accommodation or a resolution of the situation you, the government, have made the decision.

Mr. Nicholson: Substantially, yes. As you know, Mr. Knowles, and I think all members of this Committee know, at least once a year national organizations such as the Canadian Labour Congress, CNTU, the railway unions, the Chamber of Commerce and others make representations to the federal government and also to the provincial governments. In the presentation that was made in 1966 the CNTU, just as they asked for changes in housing and other policies, suggested a change in the constitution of the Canada Labour Relations Board to correct the situation that I have described, and they made a very effective and persuasive appeal. There was no suggestion in the brief presented that year by the CLC that they wanted any change along these lines, and when I within a matter of hours brought this request to their attention they did not hesitate to say that they were definitely opposed. I asked them if they had any counter suggestions to make and no counter suggestions or proposals were forthcoming. But when you ask if I did not receive representations from other groups that were opposed to any change I must say that the only representations I received, apart from individuals, came from unions affiliated with the CLC. But on the other hand, the Committee chaired by Mr. Winters had a brief from the Teamsters supporting the position taken by the CNTU.

Mr. Knowles: But, in the main, it is a confrontation of the two larger groups and as you have not been able to get them to arrive at an accommodation or a compromise the government has made the decision along the lines of the request from one of the bodies?

Mr. Nicholson: That is correct.

Mr. Knowles: Now bearing in mind your own quoting of the maxim that justice must not only seem to be done but must be done, do you not think that further effort should have been made to find some kind of accommodation rather than the government seeming to come down on the side of the minority group and against a group that is much larger?

Mr. Nicholson: Well, having been a strong spokesman for minority groups during the whole of your public life, Mr. Knowles, you know that legislative action is necessary in a great many cases to protect the rights of minority groups. I can say in all sincerity that not only did we invite the CLC, the CNTU, the Teamsters, and anyone else to come and

put forward their cases, but we asked them if they had any other alternatives to suggest. We got no help, and when briefs were put forward again by these organizations in 1967 we still got no help. In the meantime there had been another hearing of the Canadian Broadcasting Corporation case before the Canada Labour Relations Board and representations were made to me, as Minister of Labour, by this Corporation, saying that there was much more to the CNTU position than they had first thought.

Mr. Knowles: In any case, you approve—you already have done so—of our going through the same processes in committee. We will hear from both sides and in due course we will express our judgment on the matter.

Mr. Nicholson: Absolutely. I would be very surprised if your Steering Committee, Mr. Knowles, has not already planned to hear the views of not only the CLC but those of the railway unions themselves. You may even hear from railway management. I might say that I have had representations from railway management. They want to make sure that this change in the Act, if it is accepted by Parliament, is not going to fragment the railway operation. I would be surprised if you do not get representations from railway management on that score.

Mr. Knowles: I have just one other question, Mr. Chairman. Mr. Nicholson, you based your case very largely on one instance where the CLRB came down against the CNTU affiliate. Have there been cases where the CLRB has ruled in favour of CNTU affiliates?

Mr. Nicholson: Yes, there have been.

Mr. Knowles: How many?

Mr. Nicholson: I will have that information available...

Mr. Knowles: I would like to have full...

Mr. Nicholson: If I cannot give it, Mr. MacDougall will.

Mr. Knowles: At the next meeting would be quite satisfactory. I would like to have full statistics on how many times CLRB has ruled in favour of a CNT union, even cases where it has been a CNTU affiliate against a CLC affiliate.

The Chairman: Mr. Mackasey has a follow-up question. Is yours also a follow-up question, Mr. Hymmen?

Mr. Hymmen: It is a follow-up on a question Mr. Régimbal asked.

The Chairman: Proceed.

Mr. Hymmen: Mr. Chairman, Mr. Régimbal has anticipated my question. I will be very brief. I would like to hear later, from the Minister or from others, the role of management on the Labour Relations Board. The suggestion was made that the CLC showed some bias. I can understand that the bias would be in the other direction if the CNTU had the majority of labour members, but this also assumes that management's representation, which composes half of the Board, is either neutral or biased. I do not want to take the time now, but I would like a little clarification.

Mr. Nicholson: That is a good note on which to open up the next part of my remarks, Mr. Chairman; in this particular CBC hearing I am sure the position of management did have an effect on the management representatives on the Board.

That is one of the problems which has influenced me, at least, as a member of government, in including the appeal provisions in this Bill.

I will deal with that at my next appearance.

Mr. Mackasey: Mr. Chairman, it would be very easy to infer from Mr. Knowles' question and the very open answer by the Minister—should someone wish to make the inference—that this Bill was sponsored at the sole request of the CNTU. Do I gather from your remarks, Mr. Nicholson, that there have been requests from other groups?

Mr. Nicholson: Oh yes. The third largest group after the Union of Public Employees is the International Brotherhood of Teamsters.

Mr. Mackasey: In other words, it is unfair...

Mr. Nicholson: They also have asked for a change in the law, strongly supported...

Mr. Mackasey: ... to jump to the conclusion that this was done simply to appease the CNTU?

Mr. Nicholson: There is no question that it would be most unfair to draw that conclusion.

Mr. Mackasey: Thank you, sir.

Mr. Knowles: Then the Minister was unfair to himself.

Mr. Mackasey: I got the answer to my question.

The Chairman: There is one minute left. Mr. Guay?

[Translation]

Mr. Guay: Mr. Minister, I should like to ask an additional question to follow up the question Mr. Knowles asked earlier, namely, how many times the Canada Labour Relations Board has taken a stand in favor of the CNTU. What was the redistribution of votes in each instance? Was it not the four management representatives who voted, and the representative of the CNTU who presided

over the committee? This always meant a vote of five to three. Would it be possible, when you are giving the number of times, to tell us just how the vote took place and how it was distributed?

[English]

Mr. Nicholson: Mr. Guay, I think I got most of the subject of your question. Unfortunately the translation system is not working. I did not get any of the English translation. I would prefer to sit down and read your question. My reading of French is much better than my writing of it. I would prefer to answer that at our next sitting.

The Chairman: The Committee will meet again on February 8 after Orders of the Day, at 3.30 p.m.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,
The Clerk of the House

18

HOUSE OF COMMONS
Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE
ON
Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 2

RESPECTING
Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act.

THURSDAY, FEBRUARY 8, 1968

APPEARING:
The Honourable J. R. Nicholson, Minister of Labour.

ROGER DUHAMEL, F.R.S.C. - 5 1968
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

UNIVERSITY OF TORONTO

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT
Chairman: Mr. Hugh Faulkner
Vice-Chairman: Mr. René Émard

and

Mr. Allmand,	Mr. MacInnis (<i>Cape</i>	Mr. Munro,
Mr. Clermont,	<i>Breton South</i>),	Mr. Nielsen,
Mr. Duquet,	Mr. Mackasey,	Mr. Ormiston,
Mr. Gray,	Mr. McCleave,	Mr. Patterson,
Mr. Guay,	Mr. McKinley,	Mr. Racine,
Mr. Hymmen,	Mr. McNulty,	Mr. Régimbal,
Mr. Knowles,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Lewis,	<i>North and Victoria</i>),	Mr. Ricard—(24).

Michael A. Measures,
Clerk of the Committee.

CORRIGENDUM

Minutes of Proceedings February 1, 1968, *Issue No. 1*:
Page 1-6, line 4, insert "McNulty", between "McKinley", and "Ormiston".

ORDER OF REFERENCE

FRIDAY, February 2, 1968.

Ordered,—That, for the purpose of hearing witnesses, the Standing Committee on Labour and Employment be authorized to sit while the House is sitting; and that its quorum be reduced from 13 to 9 Members.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, February 8, 1968.

(3)

The Standing Committee on Labour and Employment met this day at 4.10 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Allmand, Clermont, Faulkner, Gray, Guay, Hymmen, Knowles, Lewis, Mackasey, McCleave, McKinley, McNulty, Muir (*Cape Breton North and Victoria*), Munro, Patterson, Régimbal, Reid, Ricard—(18).

Also present: Mr. Grégoire, M.P.

In attendance: The Honourable J. R. Nicholson, Minister of Labour; and from that Department: Mr. Bernard Wilson, Assistant Deputy Minister; Mr. J. L. MacDougal, Director of the Employee Representation Branch and Chief Executive Officer of the Canada Labour Relations Board.

Mr. Nicholson resumed his statement on the matter of Bill C-186, *An Act to amend the Industrial Relations and Disputes Investigation Act*; he was questioned from time to time.

In a discussion of the scheduling of witnesses, the Chairman reported that he would call a meeting of the Subcommittee on Agenda and Procedure for early next week.

It was agreed that the Committee's meeting called for tomorrow at 9.30 a.m. be cancelled and that the Committee meet later this day at 8.00 p.m.

Mr. Nicholson resumed his statement, during which he was questioned from time to time.

His statement having been completed, Mr. Nicholson was questioned, assisted by Messrs. Wilson and MacDougall.

With the questioning continuing, at 6.02 p.m. the Committee adjourned to 8.00 p.m. this day.

EVENING SITTING

The Committee resumed at 8.10 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Allmand, Clermont, Faulkner, Gray, Hymmen, Knowles, Lewis, Mackasey, McCleave, McKinley, Muir (*Cape Breton North and Victoria*), Munro, Patterson, Régimbal, Reid—(15).

Also present: Messrs. Grégoire, Johnston, Lefebvre, Stafford, M.P.'s.

In attendance: Same as at the afternoon sitting.

On motion of Mr. McCleave, seconded by Mr. Lewis,

Resolved,—That the Clerk of the Committee be instructed to obtain 30 copies in English and 15 in French of the “Industrial Relations and Disputes Investigation Act”, and of the Rules and Regulations under the Act, for the use of the Committee.

Mr. Nicholson was questioned, assisted by Messrs. Wilson and MacDougall.

The questioning having been completed, the Chairman thanked Mr. Nicholson for his attendance.

Following upon a discussion of the scheduling of witnesses, it was agreed that on Monday next, February 12th, the Subcommittee on Agenda and Procedure would meet in the late afternoon and the Committee would meet at 8.00 p.m.

The Minister thanked the Committee for its consideration in meeting to hear him this evening, a time which met his convenience.

At 9.27 p.m., the Committee adjourned to 8.00 p.m., Monday, February 12, 1968.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

AFTERNOON SITTING

Thursday, February 8, 1968

The Chairman: Will the Committee come to order please? There is a request to Members of the Committee that they use the microphones. Speak into them please; we had a lot of difficulty with the transcript from the last meeting.

We have with us today the Minister of Labour, and Mr. MacDougall, and in the wings Mr. Wilson.

I will ask the Minister of Labour to continue with the statement he was making the last day we met. Mr. Nicholson?

The Honourable John Robert Nicholson (Minister of Labour): Mr. Chairman, first may I apologize to you and other Members of the Committee for being a little late. There was an urgent long-distance call and it had to do with some urgent activity of the Department of Labour which kept me for the last ten minutes. I had to go out of the House in a hurry and I have just finished the call.

Continuing, gentlemen, at the part in my notes where I left off last time, there are two or three points that should be made before I begin some comments on the actual clauses of the draft bill. But before doing so, having had a chance last night to read over the transcript of my evidence at the first day of hearings, there are one or two points that I would like to make very briefly. I congratulate the reporter on the accuracy of the report. There are one or two typographical errors but on the whole it is an excellent report and I have not had a chance to revise it. When I read it over my attention was drawn to the article that appeared in the *Toronto Globe and Mail* on the morning after the day of the first hearing of this Committee on the subject matter of this bill. My attention was drawn, in the House of Commons, by one of the Members of this Committee to a statement that appeared in the *Globe and Mail*. On the whole the article, which was under the by-line of Cameron Smith, is, I think, a very fair description of what I said with two exceptions. First, in

the third last paragraph I was alleged to have stated to the Committee that it would be unfair to assume that there had been no representations from other societies and that I had had representations from the teamsters union and the Canadian Union of Public Employees in support of the principles contained in this bill.

Those of you who were here will recall that I did mention the unions associated with the teamsters council. I said that they had filed a brief in support of the principle but I made no reference whatever in that connection to the Canadian Union of Public Employees, and I would like to clear up the record to that extent.

The only other comment I have with regard to the newspaper article, which as I say was, in my opinion, an accurate summary of what I said, I do not think the heading, with all due respect, is a fair synopsis of the article itself. It said:

Nicholson says labour bill changes designed to give CNTU break.

What I said before the Committee or at least what I attempted to say, was that the labour bill changes were designed to give the CNTU a fair or an even break. If they want to put it that way I will accept the headline. I think the CNTU as any other body in this country, is entitled to an equitable, a fair or an even deal and that is the submission I tried to make.

● 1615

There is another matter Mr. Chairman, before going on with my evidence, to which I would like to refer briefly. Last week I referred to the fact that in the United States they not only had a public interest board as distinguished from a representation board, such as we have in Canada, but there was an appeal from that board in certain cases to the courts in the United States.

I should have made clear at the time—I would like to do so now while there is a judicial review of the decisions of the National Labour Relations Board in the United States, the judicial review is limited to final orders of the board in cases of unfair labour

practices, and that judicial review does not extend to certification proceedings when the board is deciding on the appropriateness or otherwise of a bargaining unit.

Mr. Lewis: I do not want to interrupt the Minister but may I venture to suggest that even that may not be a fairly accurate statement of it.

When you have a decision of the board in the United States that a certain act was an unfair labour practice, and it makes an order that certain things be done, it is that order which then may be taken to court either to enforce it or reject it. It is not a judicial review of the decision; it is a judicial review of the reasons for the decision; it is a judicial review of the order that certain things be done or that people abstain from doing them.

Mr. Nicholson: That is correct and it is not strictly accurate to refer to it as an appeal either.

Mr. Lewis: No.

Mr. Nicholson: I do not want to be too legalistic or too academic, but it is a judicial review that is not unlike our system of pre-rogative writs rather than an appeal.

Now Mr. Chairman, if I might continue with my statement.

Mr. Lewis: Mr. Chairman, again, I hope you do not mind. I am sorry. I want to raise another matter very briefly in case it may not be convenient later, if I have your permission?

I received a notice that the Committee would meet tomorrow at 9:30 in the morning. Before I say anything about it, may I ask when, where and by whom that decision was made, because I am a Member of the Steering Committee and I was not asked about it. My secretary tells me that when she was in the office she received no word that a Steering Committee meeting was being held.

The Chairman: Yes that is a fair comment. This was arranged by me with a view to expediting the hearings. If it is the feeling of the Committee, and I think it is from representations that I have had, we might forego that meeting.

Mr. Mackasey: Mr. Chairman, I have a word on that if I may when you are done.

The Chairman: I think I will entertain very few comments. If it is the general consensus of the Committee that we do not meet on

Friday, I would like, certainly, to determine that very quickly. Mr. Mackasey?

Mr. Mackasey: If we are not meeting on Friday, tomorrow, because many Members will be away from the House, I would appreciate your arranging to schedule a meeting late on Monday, at which time members will have an opportunity to come back. I just want to reemphasize to you, Mr. Chairman, that the House should, under normal circumstances, adjourn in early March and to do justice to both sides of the question on Bill C-186 I think we need to schedule as many hearings as possible and in as brief a time as possible so that, if necessary, the Bill gets back to the House of Commons in time for a fair and not an abbreviated hearing on second reading. For this reason, if we are obliged to cancel the meeting tomorrow, then let us schedule one on Monday; Tuesday and Wednesday is impossible because of the various delegations coming to Ottawa.

The Chairman: Mr. McNulty?

Mr. McNulty: Mr. Chairman, I do not believe it is because a number of members will be away from the House tomorrow as Mr. Mackasey intimated. I believe a great many of us are on more than one committee, and if we could have commitments for committee meetings given to us possibly one or two days in advance I think this would be very beneficial. I know there are two or three committee meetings coming up. If we knew possibly a week in advance it would be helpful.

• 1620

The Chairman: Well, I think that is fair, and I will just explain the position of the Chair. The difficulty at this stage is scheduling briefs, the difficulty of pinning various interest groups down to a day. The only reason we have not scheduled more fully at this point is simply because I do not have enough information for the Steering Committee.

By the first of next week I expect to have enough of an indication which various interest groups want to appear before the Committee to have an intelligent discussion with the Steering Committee, and I intend to convene the Steering Committee. I do not want to get into a discussion of this. I think it is the consensus of the Committee that we do not meet Friday. Therefore, I will take it as the consensus. Mr. Mackasey has made the suggestion that we might meet on Monday. Is that a fair suggestion?

Mr. Allmand: What about tonight? Is there any reason why we should not meet tonight? We were late starting this afternoon.

Mr. Lewis: Mr. Chairman, I can appreciate what Mr. Mackasey has said, but let me say this to you, sir, and to the members of the Committee. As I recall it, the resolution on this bill was debated—I looked it up—on December 5. The House did not rise until December 21. If there was any wish on the part of the Minister or his Parliamentary Secretary, or anyone else to get going with this Bill, then something should have been done to convene the Committee then. As one member of the Committee I have no intention of agreeing, at the very beginning of the Committee's hearing, to being shoved morning, afternoon and evening.

Members of Parliament have other jobs; there is other equally important legislation; there are other equally important committees, and I have never been on a committee where, at the very start, the pressure is put on that we meet afternoons without warning, evenings without warning and Mondays without warning. I see no reason for it. If there was any rush about it, it could have started last December.

The Chairman: Mr. Lewis, there is no attempt to rush you; that would be a difficult exercise at best and I am not prepared to engage in that right away. I am only attempting to do things in an expeditious manner and I am sure you, as a member of the House of Commons, are anxious that we proceed as expeditiously as possible. Now, I am in the hands of the Committee. Friday has been ruled out by consensus.

Mr. Knowles: Why not refer it to the Steering Committee, Mr. Chairman?

Mr. Nicholson: Mr. Chairman, I am not a member of the Committee, and you will recall that one reason why we are sitting this afternoon rather than this morning is because it was impossible to sit earlier in the week. There were caucuses this morning that made it difficult. I am now in the middle of my statement. I do not know how long questioning by the members will take. I will not be here next week and I would like to finish my statement, if not this afternoon, this evening or early tomorrow morning. It has already been ruled that you will not be sitting tomorrow. I am anxious to attend as many sittings as possible, but I cannot be here next week

and I may not be available the following week.

The Chairman: Can we agree to tonight?

Mr. Lewis: In view of the Minister's statement that he will not be here next week I am prepared to sit this evening.

The Chairman: I sense a consensus so we will meet tonight and continue to hear the Minister and, I take it, Mr. MacDougall. I will convene a Steering Committee meeting first thing next week and we will try to schedule these meetings with the other members for a week or two in advance. Is that fair?

Mr. Lewis: So long as this evening's meeting will be merely to complete the Minister's statement and questioning.

The Chairman: Yes, but if, Mr. MacDougall were here also we should probably, depending on time, discuss...

Mr. Nicholson: Mr. MacDougall is really here to supply information on the mechanics and operations of the Board. We are working as a team or a unit.

The Chairman: If that is agreeable, we will reconvene tonight at 8 o'clock in this room. Is that a fair hour?

Some hon. Members: Agreed.

• 1625

Mr. Nicholson: Just before the adjournment one of the members of the Committee, Mr. Guay, asked a question. He inquired whether or not I could give him any information about the record of votes of members of the Board. I told him that I thought I had understood the import of the question but I would like to read and consider it.

As a matter of fact, the Canada Labour Relations Board does not keep a record of the votes of its members. It is done by consensus. Occasionally, where there is a dissent on a specific point, there may be a recorded dissent, but as a general rule the decision of the Board is announced and you do not know whether it is four to one, or five to one; it is a decision of the Board, so unfortunately we do not have the information available that Mr. Guay requested.

An hon. Member: Have you no minutes of the Board?

Mr. Nicholson: Yes, but they are private and confidential, because the notes they take

and the discussions based on those notes are not for public consumption.

Mr. Lewis: The Minister says the information is not available. It is available, but the Minister does not feel he ought to give it. Is that not right?

Mr. Nicholson: Unless there is a dissent on one specific point, the minutes of the Board do not show how the voting goes. That is my information. You can question Mr. MacDougall on that more extensively if you like.

Mr. Knowles: Do you know the answer to the question I asked?

Mr. Nicholson: Well, you asked two questions, Mr. Knowles. The information you have asked for would indicate that during a 10-year period from September, 1948, to 1967—nearly a 20 year period, 19 years, actually—the board received some 70 applications for certification from unions that are affiliated with the C.N.T.U. Of these, 9 were withdrawn, so we are really thinking in terms of 61 applications.

On a percentage basis, the majority of these were granted, and 26 per cent were rejected. But I would say this, as I intimated in my testimony before this Committee last week: in my humble opinion—and I think the record will show this—it is not a fair criterion, because the situation to which I referred last week has been more a development of the last two or three years than the earlier period. I think when you consider the rivalries that exist between these two groups of unions—because they are not one union, they are groups of unions—the atmosphere has been a little more tense during the last two or three years than it was in earlier years, so decisions that were made in the first seven or eight years would not be nearly so helpful as the developments of the last year or two.

Mr. Knowles: Do your statistics break this down by years, or for a period of years? I gather that 74 per cent of the applications for CNTU affiliation were granted.

Mr. Nicholson: It was 61 per cent over the 19-year period; sixty-one per cent of 70 applications were granted. Twenty-six were rejected, the others were withdrawn; 9 of them, representing 13 per cent, were withdrawn.

Mr. Knowles: That is roughly 60 to 20. Has it varied in recent years?

Mr. Nicholson: Yes, I think it has. Mr. MacDougall will have to give you that information; I can not.

The Chairman: Gentlemen, I would like to make a point here. It is my view that we should hear the statement. I cannot imagine that any form of questioning, however innocent at this stage, can be curtailed. I think probably it will be in the interests of orderly proceedings it hear the Minister out before we get into questions. I think that is only fair.

• 1630

Mr. McCleave: That was agreed to by the Steering Committee and I suggest we stand by that agreement.

Mr. Nicholson: Mr. Chairman, as I have said, the government is committed to the principles of this bill. We feel that the circumstances to which I referred in some detail in my opening statement fully justify the adoption of the principles of this bill by Parliament and its enactment at an early date.

I believe that the case we have made out for an amendment to the Act on the basis of equity and justice, not only being done but seeming to be done, is unanswerable. With great respect to persons and organizations that oppose the bill—and I have seen some very strong protests, particularly within the last week—I think their own self-interest is not totally divorced from the arguments.

Of course, the same must be said of the CNTU; they support the principles of the Bill but the same arguments would apply to them, there is a self-interest feature there. But our job, and I am speaking as a member of the government, and your job as parliamentarians and law makers is to be impartial; to make sure, as I said earlier, that not only is justice done but that it appears to be done.

If you will look at the reasons for the specific provisions of this bill, I would like to deal with them while this is the subject matter that is referred to. I think the best way to do it is to take the clauses as they come up and deal with them.

Clause 1 of the bill would add two subsections to the present section 9 of the IRDI Act. That section 9 deals with the certification and applications for certification that are made to the Board. The Board's powers were not wide but subsection (3) of section 2 deals with this particular point.

For the purposes of this Act, a "unit" means a group of employees and "appro-

priate for collective bargaining" with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer.

That is the test the Board applies when it deals with applications for certification under section 9. They must first decide whether it is an appropriate unit.

Now, I might say that many of the briefs that have come in have suggested this is an attempt to encourage the establishment of regional units; that is, units that would be associated specifically with a distinct geographical unit in Canada or, perhaps, with a self-contained establishment of the same employer.

• 1635

If you believed all that you read in the newspapers and in some of the briefs you would think this was an innovation, that the Board had never certified individual establishments of the same employer. That is not so. On several occasions they have certified individual units and designated different unions to represent these units of the same employer. It has been done in the case of flour mills, grain elevators, Central Mortgage and Housing Corporation, of which I was the responsible minister for several years, and The Bell Telephone Company has done it on occasions.

I referred earlier, in answering part of Mr. Knowles question, to the period September 1, 1948 to November 30, 1967. There were 59 applications to the Board for regional certification during that period. Of that 59, the Board granted 27 regional certificates. That is a very significant percentage of 59.

Again, to be frank and fair, I should acknowledge that several of these regional certificates were granted because the unions were already established as the bargaining units of the employees concerned. The Board did not think they should be disturbed and that undoubtedly influenced their decisions in granting certification. Nevertheless, there have been cases where regional certificates have been granted in the past.

Clause 2 of the bill provides for the appointment of a second Vice-Chairman. I am sure that most if not all of the members of this Committee will agree that in fairness and equity a second Vice-Chairman is desirable.

Only three of the ten present members of the Board, if you include the Vice-Chairman who only functions in the absence of the Chairman, are bilingual.

It is quite true that the government could change that representation, but where you have men that are doing a good job certainly there is nothing against, and much to be said in favour of, appointing a second Vice-Chairman who could deal with applications where either the French language or both languages are required. So it is desirable, I think, that there should be a bilingual person available to chair the Board in cases where the Chairman thinks such a course is desirable.

If the Chairman were bilingual he could do it. No man lives forever; the chances are there will be a change in the chairmanship some time within the next decade, but when you have a Chairman who is doing a good job and has done a good job consistently I think it is much fairer to appoint a bilingual Vice-Chairman.

Clause 2, which provides for the appointment of the second Vice-Chairman, could also be justified by the further proposal to provide for the sitting of the Board in panels. I admitted last week quite frankly that the Board sits only two or three days a month, but I still think there are advantages, having regard for the membership of the Board, in making it possible for them to sit in panels, even apart from the circumstances which led up to the government's introduction of this bill in Parliament.

Where there are a number of applications and some of them require a bilingual chairman, you could have a man who is at ease in both languages to chair that meeting and you could have another inquiry sitting at the same time. In the case of a panel that is dealing with an application where the interests of French-speaking Canadians are involved you could see to it that the bilingual members of the board sit on that panel.

• 1640

That is quite common practice in the courts of this country. I know that in the Province of British Columbia where I have practised law for many years there are nine judges with the court of appeal and they sit in panels continuously. There is rarely a day when the court is sitting that you do not have at least two panels of that court, one dealing with civil and one dealing with criminal matters, and occasionally a third panel is sitting.

It is established practice of the Supreme Court of Canada to sit not as a full court but in panels. You will find one panel sitting hearing chamber motions and another hearing regular appeals.

It is also well known that where you have an appeal, for instance from the province of Quebec, the Chief Justice makes sure that if they are available—unless for reasons of health or some other reason they can not sit—all three members from the Province of Quebec who have a knowledge of the civil law sit as members of the division of the court—it is not a panel, but a division of the court—that is hearing the appeal from the Province of Quebec.

So you get three from Quebec out of a division of five, or a division of seven, and then if it is a case in constitutional law the three judges from the Province of Quebec, the three members of the Supreme Court of Canada, are reinforced and the panel is completed by judges who the Chief Justice feels are best suited to participate in a discussion. If it is a criminal case, the same principle is carried through.

We also have this in Ontario. They sit in divisions, which is only another name for panels, and I certainly feel that it is desirable, since the courts do it regularly, under this Act, or under the amended Act, to make it possible for this Board to sit in panels so they can deal with each case on its merits.

If that change takes place at least one result follows. If you have a Chairman or a Vice-Chairman and two representatives of labour and two representatives of management, naturally you are not going to put on the two members from the CLC; you would in fairness put on one from the CNTU and one from the CLC. Therefore, the panel system, rather than a sitting of the full Board, should commend itself in fairness, I would think, to fair-minded people, and I am hopeful that your Committee will agree that the amendments we have suggested and which are found in clause 2 of the Bill will commend themselves to you.

Now, rather than deal with clauses 3 and 4, I would like to go to clause 5, because it follows from what I have been saying concerning clauses 1 and 2. If you look at clause 5 of the bill—I am sorry; that is the appeal section. I have dealt with clause 5. Clause 3 refers to the Vice-Chairman and clause 4 to the establishment of rules if the Act is

amended and panels are provided for, and two Vice-Chairmen are appointed. Clause 5 is the appeal division.

• 1645

When you look at clause 5 you will see it is proposed that two members be appointed in addition to the representation members. As you know, there are four from industry, four from management and four from labour and it is now proposed that in addition to those that two other members, representative of the general public, should be appointed.

You probably are saying: "Why is that necessary?" One reason I can suggest why it is necessary or desirable, is because of the greater problems that a company or an employer might have when negotiating with two or three unions instead of one; management representatives on the Board may lean at least constitutionally against the establishment of separate bargaining units.

Now, when you are considering the appropriateness of a particular unit you might think, as Mr. McNulty or one of the members of the Committee suggested, that management would provide the independent viewpoints that might tip the scale. In a great many cases undoubtedly they would, but we are all human and I cannot help feeling that management unconsciously—if they had no particular interest in the appeal or case being heard—could lean one way or the other.

Let me give you an example: The reason I went into the CBC case at some length, which started this ball rolling in the first instance, was that when the appeal came before the Board for hearing in late 1965, CBC management put in a spokesman for management and he put forward the views of the CBC that they did not want to see more than one bargaining unit for the employees involved.

As I say, notwithstanding how completely honest the management members of that Board might be, there is a danger that unconsciously they would be influenced by the fact that management, in the particular application, has taken a stand one way or the other. I know that in the case of the CBC one of the senior officials of the Company came to see me after the decision was handed down. He wanted to know if there was a possibility of a review by the Minister or the Cabinet, because he was concerned that management should not have taken the view that they did.

• 1650

And in his conversation with me—and I am repeating it advisedly because it was not confidential—he conceded that although he could understand a railway or a transportation company not wanting to take a chance on its system—in fact, having different unions with which to negotiate—he was not prepared to concede that in the case of a system such as that of the CBC in which, as I mentioned the first day the Committee sat, there are problems of culture, language, education, and so on inherent in the system as distinct from a transportation system, to which other considerations apply. He said quite frankly that that part of the argument had not appealed to him until after the case had been dealt with.

That admission on the part of this gentleman influenced my thinking and I am sure that it has influenced the thinking of other people. There is a very serious distinction in my mind and in the mind of the government, between a transportation system such as a railway or an airline and an organization in the communications field where language and cultural associations are so important.

I certainly think it is a legitimate and understandable desire for French speaking employees of the CBC French Language System to want to organize their own independent French language union or unions, to want to live and work where French culture predominates and to so direct their thinking. You cannot begin to work in cultural and educational programs without having feelings one way or the other. And if you believe in the right of association, all things being equal, it would be normal to agree that if the majority of a group wanted to form a union to bargain for them they should be allowed to do it.

Now they might decide in their wisdom that they do not want their union to be associated with a CNTU union. Now they could readily decide they wanted their union to be associated with CUPE or the Quebec Federation of Labour, but that should be the choice of the people who comprise that union. Mr. Chairman, that is about all that I can say on that particular phase of it.

The management of the CBC, in the first hearing took a very definite stand. I think that would be so in the hearing of any case where labour representatives are divided. Even under the Panel System, which the government has proposed for your consideration, you might have the CNTU representative voting one way and the CLC representative vot-

ing the other, and then there would be the two representatives of management. One would hardly conceive that you would have only one from management. But think of the position that representatives of management are put in when labour representatives become divided. Whether they lean in favour of one side or the other they have no particular interest, but they have a power of decision in that particular case. Now rather than leave the power of decision strictly in the hands of management it is the feeling of the government, after very serious consideration, that there should be an appeal to an appeal board in this kind of case, and that this board should be similar to the one in the United States, which is a public interest tribunal. As I stated in the House in answer to a question put by Mr. Lewis, the members of this Appeal Board—there would be two of them—would be picked on the basis of their experience and their reputation for integrity. Any appointments made to this Board would be above reproach in every way, just as our judicial appointments are above reproach. When you get a division between two labour interest groups, or between labour and management—they have locked horns many times and management has gone one way and I am told all the CLC labour people have gone another—why should there not be a right of review and a decision made by a public interest group who are interested only in the general public of Canada.

• 1655

Mr. Chairman, I might sum up by saying that it is proposed under the Bill, the subject-matter of which is now before you, that the Appeal Division would be headed up by a chairman or one of the vice-chairmen of the Board, depending upon whether there was a necessity to have one or more languages. If a second language was involved, I am sure the Chairman would ensure that the appeal was chaired by a man who did not sit as a member of the original panel; and if it were an appeal where the two languages were needed the bilingual vice-chairman would preside and the two public interest people would make the decision.

I repeat that it would be the intention of the government to appoint, as the two public interest members of the Board, people on the basis of demonstrated abilities and stature in industrial relations work in Canada and they would be chosen from among those people who are regarded as being impartial between labour and management. I might add that this

is the manner in which the United States appoints its National War Labor Board. This Appeal Division of three will hear the appeal under procedural rules which will be made with the approval of the Governor General under clause 4 of the Bill.

I think two vital points must be made in my summing up. It has been suggested that this Bill constitutes an open invitation—I have read this and I have heard it many times over the last few weeks—by the government to regional raids by various unions, who would be free almost at will to carve out units and fragment existing bargaining situations. I want to say that in my humble opinion, and in the opinion of the government, this is certainly not so. Both the Board, or a panel of the Board, and, where an appeal is taken, the appeal division, must make the decision on the appropriateness of the bargaining units proposed by the applicant.

That authority is there, and there is nothing in this Bill, or in the proposed amendments, that takes that power away from the Board or from the appeal division if an appeal should be taken.

• 1700

Having spent a lot of time over the last two years or so studying the work of the Board, I am perfectly certain that a very strong case would have to be established before a unit would be selected out of a national system which would result in division.

Much comment has been made in briefs that have been presented to the effect that it would not be in the public interest to allow the transcontinental railways to be carved up into five or six regional units, or empires, as was the expression used in one or two briefs, which would enable a number of different strikes to take place. However, I cannot believe that any sensible Board, or any Appeal Board would be likely to fractionalize a nationwide system of that kind. The Board is still the only body that has the right to decide on the appropriateness of the unit here, and a study of the history of the workings of the Board will show that they are going to put the national interest first.

By following this course I hope we have corrected what the government feels is an injustice, an unequitable situation, that is permitted under the existing legislation.

The Chairman: Thank you, Mr. Nicholson. I have Mr. Lewis, Mr. Regimbal, Mr. McCleave, and Mr. Gray.

Mr. Mackasey: Mr. Chairman, just for clarification and so that it may facilitate the hearings, have you any rule that you propose to apply to the length of time that members can speak, so that all may have ample opportunity to make their point?

The Chairman: I would not refer to it as a rule, but I will try to establish the practice that a person may cross-examine for 5 or 10 minutes at the most. I think that is acceptable, and it is the normal practice.

Mr. Lewis: I hope I will not be too long, Mr. Chairman. I want to try...

The Chairman: We will remedy the situation if you are.

Mr. Lewis: I want to avoid arguing too much with the Minister, because we will have an opportunity to do that on the floor.

I wish to refer to the appointment of an additional French-speaking member of the Board through the suggestion of a second vice-chairman, to whom, of course, neither I nor anyone else object. My questions are directed to the suggestion, Mr. Chairman, so that the Minister will know that in my opinion that was not the way to do it. There were much better ways of doing it, and of giving French-speaking Canadians a much better chance, than by the token gesture that this represents. Am I right?

Mr. Nicholson: That is why we put the other...

Mr. Lewis: Am I right in saying Mr. Nicholson, that Mr. Arthur Brown was appointed Vice-Chairman of the Board sometime back in 1948, when the Board was first established, and was made Chairman of the Board in 1964, after he had retired as Deputy Minister of Labour?

Mr. Nicholson: I think that is correct, Mr. Lewis. I know that Mr. Brown, who was Assistant Deputy Minister at that time, was made Vice-Chairman of the Board and that he functioned as Vice-Chairman when the now Chief Justice, Rhodes Smith was Chairman, and that when Mr. Justice Smith left the jurisdiction Mr. Brown was promoted to the chairmanship within the last 4 or 5 years.

Mr. Lewis: I do not want my question to suggest that I do not appreciate Mr. Brown's work—I have appeared before him—but he is a gentleman of over 70 years. Does not the

Minister think that it would have been perfectly legitimate, his having been on the Board since 1948, to have asked him to resign and to have replaced him with a French-speaking bilingual chairman? Would not that have been a better way of putting a senior, French-speaking officer on the Board? Why add another vice-chairman?

• 1705

Mr. Nicholson: With all due respect, the great majority of appeals that come before this Board do not involve the second language. There is no conflict of interest between a union that is French-speaking, or partly French-speaking, and an English-speaking union. Why should we not have the benefit of Mr. Brown's experience in those cases in which there is no conflict of interest, such as we suggest here?

Furthermore you mention the age of 70. We do not...

Mr. Lewis: Seventy-two, I think, is his actual age, or seventy-three.

Mr. Nicholson: We actually do not encourage our Superior Court judges to retire until they are seventy-five; and we frequently promote judges of seventy-two or seventy-three to the office of Chief Justice.

Mr. Lewis: It is obvious that I did not state my question strongly enough, Mr. Nicholson.

If the government was faced, as it was, with the need of redressing the balance on the Board, and you have a chairman who has been a vice-chairman and chairman for 20 years and is now about 73 years old, I suggest that one way of doing that redressing, which would be much more appropriate, and with less "tokenism" about it, would be to change the chairman of the Board, instead—if I may complete the question—of sort of asking each in turn.

You have four employer-members of the Board, three of whom are English-speaking. Of the 4 employee-nominees, before Mr. Picard withdrew, there were 2 English-speaking and 2 French-speaking; but in the employer-nominees there is one gentleman...

Mr. Nicholson: Mr. Picard has not withdrawn. Mr. Picard is a member of the Board. He is actively sitting.

Mr. Lewis: He is sitting? I am sorry. I thought for the moment the CNTU had persuaded him to withdraw. If he is sitting, that's all the better. You have two and two. You

have one employer-nominee member of the Board who is well into the eighties. I hope he lives forever. He is a wonderful gentleman. In fact, his birth date is February 5, 1879 and this is 1968. He has been a member of the Board since 1948. Another English-speaking employer-nominee has been a member of the Board since 1948. Another English-speaking men—I have appeared before them—but both are quite elderly. Would not a much better way of redressing the balance of languages have been to have asked the chairman and the two older English-speaking employer-nominees on the Board to resign? They have given their services long enough. They could have been thanked for their service and replaced by bilingual, French-speaking members. I know of no French-speaking person of any education at all who does not speak English. That is what bilingualism means in Canada—that they speak English and we do not speak French. Would that not have been a better way of redressing the balance and of doing it in a proper straightforward way, than by the token method of appointing another vice-chairman?

Mr. Nicholson: With great respect, Mr. Lewis, to answer your question and deal with the merit of your suggestion—and I do not think you have advanced that by bringing in the age of the members of the Board—what we are concerned with is having an experienced capable chairman or vice-chairman presiding officer. Removing the man who is 80 years of age is not going to give us that type of chairman and experience is of importance when you are functioning in a judicial or a quasi-judicial position.

I cannot give you the exact age but I doubt that the Chairman is 73 years of age; I think he is closer to 70 and I also think he has several years of useful service to give to the people of Canada. You used the adjective "appropriate"—"would it not be more appropriate". In my view it would not be more appropriate to remove a man who has had the experience and has several years of valuable service ahead of him when we can do it more effectively, in my opinion, by appointing a bilingual chairman to hear cases.

Mr. Lewis: Without experience?

Mr. Nicholson: He is a man who is going to be picked because of his experience and knowledge of labour-management problems.

Mr. Lewis: Exactly, and if he has the experience and knowledge of labour-manage-

ment problems why could he not be the Chairman as well as the new Vice-Chairman without experience on the Board?

• 1710

Mr. Nicholson: It is the same way with the courts. It is the usual practice to promote a judge who has served for five, ten or twenty years on the bench to the position of Chief Justice for the last few years of his life. Why should we be deprived of the benefit of the experience of the Chairman in this case? I see no reason for it whatever.

Mr. Lewis: Your public interest gentlemen who will be in the Appeal Division of the Board are going to be appointed without any experience on the Board.

Mr. Nicholson: But they may well have had appreciable experience in sitting on arbitration boards and conciliation boards and in other fields that call for the exercise of judicial discretion.

Mr. Lewis: When you appointed Mr. Rhodes Smith as Chairman of the Board, had he had experience on the Board before that?

Mr. Nicholson: He had been Minister of Labour in Manitoba and had been a very successful administrator in the labour field, and it was felt that he also was performing a judicial function. He was Chairman of the Restrictive Trade Practices Commission of the Department of Justice.

Mr. Lewis: Hardly labour-management.

Mr. Nicholson: Because when you only sit three, four or, if you include the time during which judgements are being written, perhaps five or six days a month, it is hardly a full-time job and you want to take advantage of the men that can be made available for the limited periods of time in the full time position.

Mr. Lewis: Fine. I will not pursue that. I have only one other question because I do not want to take too long. Did I understand you, Mr. Nicholson, to say that you recognize in your opinion, and in the opinion of the government if I heard rightly, a very important distinction between an industry like transportation such as, if I heard you correctly, railways and airlines, and a communications organization like the CBC where the question of language and culture are directly involved? If that is the case, are you suggesting that the Bill before us does not apply to railways and airlines?

Mr. Nicholson: Pardon?

Mr. Lewis: Are you suggesting that the Bill before us does not apply to railways and airlines?

Mr. Nicholson: The Board that would have the power under this to certify a particular bargaining unit within an airline or a...

Mr. Lewis: But it does apply to railways and airlines?

Mr. Nicholson: Yes, of course it does.

Mr. Lewis: But if you are concerned with the CBC only, why was your bill not limited to the CBC?

Mr. Nicholson: I am not concerned with the CBC only. I used the CBC because it is a case of which I have an intimate knowledge, if I may say so, having read the briefs and the representations. I used it by way of illustration. There may be others.

Mr. Lewis: Will you explain to me your purpose in emphasizing so strongly that there is a very important distinction between railways and airlines on the one hand and the CBC on the other because the latter posed questions of language, culture and education? By the way, I may well agree with you that language, culture and education do not enter into the question of railways and airlines. Why did you make that distinction when, in fact, you produce a bill that applies to railways and airlines?

Mr. Nicholson: I made that distinction because it drives home, I think, the point at issue here, that when there are disputes between different groups, certainly for people with cultural, linguistic and other common interests you can make out a much stronger case for that than you can for some other natural system.

Mr. Lewis: I have one final question. I understood you to say that there were...

Mr. Nicholson: The important thing here is that even though there is this difference, in my opinion, between a communications system of the nature of CBC or some other television-radio setup, the fact remains that the Board's discretion still remains in all these cases. It is still up to the Board to make the final decision. We are not interfering with that.

Mr. Lewis: That brings me to the next question. You have told us several times that

the Board's discretion remains and you also told us that the board granted 27 applications for regional units out of 59—I think that was the number you gave us. I always assumed as a practitioner in the field before I was elected to Parliament—or when I had time to practise, I should put it—that the Board had that power and, in fact, has exercised it.

• 1715

What is the purpose of your amendment if the Board, in fact, had the power to certify as appropriate bargaining units regional units and the Board has, in fact, done so? The Board has done so and I know because I have had a search made. It has done so, for example, in the case of the CBC for maintenance people where the CNTU, I think it was, was certified on a regional basis, and there have been other regional units certified by the Board. If that is so, what is the purpose of this amendment? If the power is already there, what do you need it for?

Mr. Nicholson: The purpose of the amendment, as I have said in the House of Commons, is purely for clarification. When you get a series of these applications that are turned down affecting French language employees, they begin to wonder whether the Board does have this power.

Mr. Lewis: Mr. Minister, what do you mean, "clarification"? If you went into a court to interpret an amendment that Parliament passes as a result of certain decisions of the tribunal that made the decisions—court or board—are you suggesting to this Committee and to Parliament that amendment is of no consequence, that the court would hold that this amendment does not expand the powers which were formerly there? Are you suggesting that?

Mr. Nicholson: I will suggest very strongly that the mere fact that we have put in a section purely for clarification does not extend the powers of the Board or vary the powers of the Board when it comes to the final determination of the appropriateness of the...

Mr. Lewis: Even though the tribunal concerned had already exercised the precise powers that you say you are now putting in the amendment?

Mr. Nicholson: I am not giving you a legal opinion.

Mr. Lewis: I hope not.

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Mr. Nicholson: If you want to get a legal opinion you can get it from a lawyer.

Mr. Lewis: I hope not, because it would not be a very valid one in my respectful submission.

Mr. Nicholson: We felt, advisedly, that it was wise to put in what I term the clarification section.

The Chairman: Thank you, Mr. Lewis. Mr. Regimbal, Mr. Mackasey has raised a question. In all frankness, I do not think we really need supplementary questions at this stage of the game. I think it is the nature of the issue; supplementary questions may be hard to contain, so if it is really a point of clarification, Mr. Mackasey, you may ask your question.

Mr. Mackasey: Well, it is in this sense, because in all fairness to the Minister I would like to make this point to him just to get his answer, because it is a little ambiguous to me. Mr. Lewis suggested an alternative method of introducing a degree of bilingualism by replacing the Chairman by a new one. Did you not say, Mr. Minister, that the naming of a new bilingual vice-president, would not only introduce a degree of bilingualism to the Board but would also permit several panels to act at the same time?

Mr. Nicholson: Yes I did.

Mr. Mackasey: This would be impossible if you used Mr. Lewis' method.

Mr. Nicholson: That is correct.

Mr. Mackasey: Would you repeat that for me?

Mr. Nicholson: In fairness, perhaps I have over stated that because if you have a chairman and a vice-chairman sitting in panels and the chairman was bilingual he could preside in the case where the two languages were needed and the other vice-chairman...

The Chairman: Do you visualize, then, the possibility of the existing vice president heading the panel in a unilingual section of Canada and the new bilingual vice-chairman heading a panel at the same time in Quebec which you could not do by Mr. Lewis' plan?

Mr. Nicholson: I visualize this situation...

Mr. Lewis: If the Minister is going to be cross-examined by his Parliamentary Secretary, would there be anything to prevent the bilingual chairman from presiding over a panel?

Mr. Nicholson: I have already said that, Mr. Lewis.

The Chairman: Just a moment—Order.

Mr. Nicholson: Mr. Lewis, may I answer this? One advantage that I see in the panel system, and let us take the Teamsters of British Columbia...

An hon. Member: You take them; take the Teamsters as far as you like.

Mr. Nicholson: ...who are a sizeable group of citizen in Canada. There are some 40-odd thousand of them and their home base happens to be British Columbia. If they have a dispute with the CLC union, about which group should be certified as the appropriate unit it might be very appropriate for a panel of English-speaking members, because there is no language problem there at all, to go West periodically and hear that panel and, at the same time, if there is a panel in a part of Eastern Canada, perhaps more particularly in the province of Quebec, where knowledge of the two languages is needed, you would have him sit. Now is it not desirable...

• 1720

Mr. Lewis: There are some months with 31 days in them; they are not free.

Mr. Nicholson: ...to have a third chairman who could preside in the event of an appeal to one or other of these boards? If one of them has been hearing an appeal in B.C. or Alberta and the other has been hearing an appeal in Quebec, I think there are other good reasons for having a third man who could be the independent chairman in the event of an appeal.

The Chairman: Mr. Régimbal?

Mr. Régimbal: Thank you, Mr. Chairman. In his historical review of the development of the Board the Minister mentioned at the outset the nomination to the labour part of the Board was one, one, one, one selection.

M. Nicholson: That is correct.

Mr. Régimbal: That is, the Canadian Congress of Labour, the Traders and Labour Congress, the CCCL—the Canadian Catholic Confederation of Labour—and the railway unions...

Mr. Nicholson: That is right.

Mr. Régimbal: ...and following the merger of this distribution, instead of being one, one, one, one, because three to one.

Mr. Nicholson: Three to one.

Mr. Régimbal: I wonder if there is any evidence in the records of the minutes of the Board or in the legislation, perhaps, that might illustrate the guiding principles of these people involved when that representation was agreed upon or suggested at the outset.

Mr. Nicholson: As I said, going back a little farther, it was during the war years. The Board was set up as a war-time labour relations board and they took the four largest labour groups in Canada and asked each to recommend this. This is my understanding; I can not vouch for it but it can be checked. Mr. Wilson would recall it; he was secretary of the board at that time. I think they just took the recommendations from each of these four large union groups. When the CLC came into being in 1956, 11 or 12 years ago, the representation just continued.

Mr. Régimbal: There was nothing regional about...

Mr. Nicholson: Not regional. They are reasonably close to Ottawa so they could attend; I mean, they could come from Montreal, Windsor, Toronto, in fairly close proximity.

Mr. Régimbal: It might help us, Mr. Chairman, if we could get some evidence along that line.

Mr. Nicholson: Perhaps Mr. MacDougall might clear that up if he were called tonight. I cannot help you; I do not know.

Mr. Régimbal: In Article 2, you mention that the purpose of the amendment is to provide a bilingual vice-chairman. If such is the case would it not be opportune that you have it indicated in the Bill that way so it will indicate at least one of the vice-chairmen must be French-speaking?

Mr. Nicholson: In my opening statement I said that while we are committed to the principle of this Bill, suggestions for improvement would be welcome and I do know that in one bill that came before the House within the last five years—I think it was a bill dealing with the rights of a class or an ethnic group, it was Indians possibly, they wrote in that one of them would be an Indian.

My attention has just been drawn to section 58 of the Act concerning the composition of the board.

There shall be a labour relations board to administer Part I which shall be

known as the Canada Labour Relations Board and shall consist of a chairman, and such number of other members as the Governor in Council may determine, not exceeding eight

and this is written in very definitely

...consisting of an equal number of members representative of employees and employers.

The two must balance and the practice of having these four large union groups have just been continued.

Mr. Régimbal: I just want to point out...

Mr. Nicholson: Furthermore, it does not say representatives of unions or labour bodies; it says: "an equal number of members representative of employees and employers".

Mr. Régimbal: I have just one last question dealing with Article 5. Is it the view of the Minister that by naming two additional people representing public interest to an appeal board, almost automatically the aggrieved party in any previous decision will revert it to appeal so that in the final analysis the only ones who would be making the decision would be the people who are not immediately concerned with the problem?

Mr. Nicholson: I am prepared to concede, Mr. Régimbal, that in cases where there is a leath struggle between two unions that would happen, but in the great majority of cases here are no appeals of that kind. It would be between two unions, for instance, both affiliated with the CLC, each trying to get certified. IATSE and CUPE, for instance, would be a good example. So in most cases there might be no appeal.

Mr. Régimbal: There might not, but where there are facilities for appeal they will naturally take one more...

Mr. Nicholson: I would doubt that because this section was carefully drawn and the appeal under section 4 (a) is limited to the appropriateness of the union; just one issue. That is the only issue on which you can appeal.

Mr. Régimbal: Only one union is going to be designated as...

Mr. Nicholson: That is right, but it is the unit in a corporation or in a particular operating set-up.

Mr. Régimbal: It is less than national.

Mr. Nicholson: Much less than national and much less than provincial in some cases.

The Chairman: Mr. McCleave?

Mr. McCleave: Mr. Nicholson, I take it that the strongest foundation for the measure really is the concept of freedom of association; is that not right?

Mr. Nicholson: That is correct. We want to see freedom of association consistent, of course, with national interest. I think it should be left to the Labour Relations Board to decide whether under the particular circumstances a group might, because of language and other interests, want to come together as a unit and bargain as a unit. In the final analysis the Board would have to make the decision as to the appropriateness of that particular unit. As I said earlier, in the case of a flour mill that could be closed down because there are plenty of other flour mills in the country, the Board has certified a unit of operating a particular mill, a different unit from the one that is operating the mill in the neighbouring town or in the neighbouring county.

Mr. McCleave: You argue that no sensible board would allow fragmentation.

Mr. Nicholson: At least that is my view.

Mr. McCleave: You also have the freedom of association concept, but you put the brake on that by adding, "subject to the national interest".

Mr. Nicholson: That is correct.

Mr. McCleave: Let us assume for a moment that the Board might not be sensible—God forbid—but let us just assume it. It would be possible, I take it, for a teamsters union to represent a class or kind of railway employees in British Columbia and for a more orthodox railway union to represent that same class or kind on the prairies?

Mr. Nicholson: It is possible.

Mr. McCleave: This is a possibility.

Mr. Nicholson: I had a couple of unfortunate experiences in your part of the country that gave me a few sleepless nights last summer, Mr. McCleave.

Mr. McCleave: You were born there, sir.

Mr. Nicholson: You have a situation where the union or unit which bargains for employees on the ferry boats which link the

railway on Newfoundland and the railway on Prince Edward Island, threatened strike and we were within hours of strike in both cases. So that situation does exist today.

• 1730

Mr. McCleave: I was thinking more of the class or kind being represented by different unions than people who represent ferry boat workers as opposed to...

Mr. Nicholson: I think all things being equal you would want to advocate freedom of association. I do not see how you could do otherwise. People have the right to pick what unit they want to represent them, what bargaining unit they want. They exercise this right. But where there are national systems the decision then must rest with the tribunal that is going to weigh, among other factors, the national interest.

Mr. McCleave: Could I ask you a question and if you do not have the information perhaps Mr. MacDougall could take notice of it and answer it this evening.

I am interested, indeed curious, about the voting patterns of the CLC and CNTU representatives on the Board. You did mention this particular CBC instance—it seems we are always considering at great length legislation dealing with the CBC. Has the voting pattern of those particular representatives consistently favoured either the CLC union or the CNTU when there is a dispute or has a CLC person voted, for example, for a CNTU application because he thought it was more in the interest of the workers involved in that unit?

Mr. Nicholson: I cannot give you an answer, Mr. McCleave, to that question other than the one I gave to Mr. Guay. No record is kept of votes in the association unless an individual member, in a rare instance, has dissented on a particular point—some question of principle. There is no record kept of votes and the minutes do not show how they have divided.

Mr. McCleave: Have there been complaints by either the CLC or the CNTU that the voting pattern is always coincidental with the interest of the CLC or the CNTU?

Mr. Nicholson: Certainly that is the impression in the minds of the executive of the CNTU and they say, "How can it be otherwise when there are three votes to one"?

Mr. McCleave: This may be their impression, but I wonder if anybody will be able to come before us and give us some precise figures on this?

Mr. Nicholson: I do not think anyone can because there are no records kept. I was impressed, however, by a statement made by my colleague, the Minister of Manpower and Immigration, in the House of Commons when this Bill was being debated. He asked if anyone had ever heard of a labour representative dissenting in favour of management or of management dissenting in favour of labour on a representation board such as a conciliation board or an arbitration board. He said he had never heard of it and, I think, he put his finger on the bite of this thing.

Mr. McCleave: Perhaps I will come up with a sensational idea right now in my final question which will blow the place apart. In a case where the CLC and CNTU are locking horns why not have the Board's decision made by representatives who are from neither the CLC or the CNTU?

Mr. Nicholson: Is that very different from what we have suggested here through a representation board sitting in with them and making the decision?

Mr. McCleave: I gathered you wanted to equalize numbers, but I am suggesting you change the method, that the judges be independent of labour, but...

Mr. Nicholson: These judges will be independent on appeals. They are to be completely independent.

Mr. McCleave: I am not talking about the appeal, I am talking about the regular hearings of the Board. If there is a dispute between CLC and CNTU or between any of the four groups from whom these appointments will come, do you get somebody not of CLC or CNTU to adjudicate?

Mr. Nicholson: The difficulty you run into there is that they represent the four largest labour groups in Canada and are functioning already. I conceded on the opening day of our hearings that a very good argument could be made for saying if there going to be only four representatives of employees it would not be unreasonable to suggest that one should come from labour, one from the railway union, one from the trades, one from the CNTU and perhaps one from another union.

It is only when the chips are down and the fight is between a union affiliated with the

CNTU, such as the CSN, and another union—they all are affiliated with one of the other three—that a balance is needed. This is also where there is likely to be the need, in the final analysis, for the right of appeal.

Mr. Knowles: We have the same problem in the House of Commons.

The Chairman: I think you are out of order.

Mr. Nicholson: I noticed you ran into this difficulty when you were setting up your Steering Committee the other day. I was here and heard the discussion.

The Chairman: That is, as yet, an unresolved problem, but we are working on it.

Mr. Munro: Mr. Chairman, I believe the Minister of Manpower and Immigration said in the House that he could never recall when a matter came before the Board involving conflict between two unions, one of which was affiliated with the CLC and one of which was not affiliated with the CLC, where the CLC representatives ever voted for the rival union which was not a member. This is the same point as Mr. McCleave was discussing.

Mr. Nicholson: I think he did make that statement. Mr. MacDougall may be able to help you. But if there is no record of how they voted, it is pretty difficult to answer. The minutes do not show how they voted.

Mr. Lewis: If there is no register of dissent...

Mr. Nicholson: That is right.

Mr. Lewis: ... then you assume that all of them voted one way.

Mr. Nicholson: That is correct.

Mr. Lewis: Either the minutes register a dissent or they do not register a dissent. If they do not register a dissent then everybody agrees.

Mr. Nicholson: There was a dissent registered in the case of the first CBC appeal.

Mr. Lewis: That is right.

Mr. Mackasey: On a point of order, Mr. MacDougall intimated that Mr. Lewis' contention is inaccurate. Am I right in presuming that that was your intention?

The Chairman: Gentlemen, we have 20 minutes left before six o'clock. Mr. Mac-

Dougall will be here tonight. Perhaps we could continue with our cross-examination of the Minister.

Mr. Munro: Mr. Chairman, the Minister indicated—and I think Mr. Lewis brought this out—that he could see special circumstances where it might be appropriate to recognize a bargaining agent even though the employees concerned were not part of a national system—where special considerations such as religion, French or other culture was involved, and so on, where the employees had a community of interest—and he distinguished between the CBC dispute and railway unions across the country. I took the inference from that, and I believe it was a correct one, that only special circumstances like this would permit, under this arrangement, recognition of such a bargaining agent.

Mr. Nicholson: That is right.

Mr. Munro: Otherwise you would anticipate that the trend would be, as I think we all acknowledge it already has been, toward the national interest dictating that these unions not be fragmented in any way. Would that be a fair conclusion to draw from what you said?

Mr. Nicholson: Yes, I would think so. As this was the case I was most familiar with, I used it for illustrative purposes. I would say that you can make out a stronger case for a board certifying the French language system of the CBC and designating it as an appropriate unit than you could for some other system-wide organization.

Mr. Munro: I understand the appointees to this Board will be representative. In other words, they will not be from the public domain but representative of the very groups they come from or are affiliated with.

Mr. Nicholson: If I may interrupt, I think that is a rather general statement. When nominees are put forward to represent labour or management on a conciliation or arbitration board, it is expected that they will function judicially, but as a general rule their glasses are coloured by the particular segment that has nominated them for the position. We know that from experience.

Mr. Munro: And because of the representative method used as opposed, let us say, to the theoretical considerations in the appointment of a judge, it is really not expected, if they happen to be representative of another rival union, that they will be objective even at the time their appointment is made.

Mr. Nicholson: Well, that is not an easy question to answer when I know so many members of this Board and know that they have done conscientious jobs as members. However, I think the philosophy of the individual and his mental approach to things is going to influence him in favour of his own particular unit or group rather than the opposite.

Mr. Munro: Mr. Chairman, in using the representative method of appointment it would be most exceptional if, say, a member of a union that was affiliated with the CLC was appointed to the Board and did not protect the interests of the organization that recommended his appointment.

Mr. Nicholson: I would not say that he would protect it but he would see that they got a fair deal.

Mr. Munro: And because of the representative method of appointment there is nothing really objectionable to this. It is not as if this man was expected to be totally impartial. This was not one of the expectations that was in mind of the government when the man was appointed in the first place.

Mr. Nicholson: That is correct. What we wanted—and it is obvious from reading the statute—was four representatives of the employees and four of the employers. It has only been since disputes have taken on the colour that they have during recent years that these questions have arisen. It is true that in the early days of the war and during the war years you might have had one union affiliated with the Trades and Labour Congress applying for certification and another one affiliated with one of the other major groups, the Canadian Labour Congress or the railways, and different groups might have leaned toward any one of these three major groups. But when the CLC really came into being it was a case of three to one, and this does have an effect on the members of a group exercising their right of association. Suppose the French language system of the CBC wanted a certain unit to act as their spokesman and they went before the Canada Labour Relations Board and a decision came out against them. They would know immediately that there were three votes to their one.

Mr. Munro: If I understand correctly then, there is an inherent bias expected when you use the representative method of appointment. I understand there are four members,

three of which come from unions affiliated with the CLC. Because of this, any unions coming before the Board requesting certification as a bargaining agent who are not part of or affiliated with the CLC never will be satisfied that they will have an impartial hearing, and one would logically expect that pattern of behavior on their part.

Mr. Nicholson: Mr. Munro, you were not able to be here last week when I have evidence. I referred to part of what you said on that occasion. I quoted from Lloyd George that not only must the decision be right it must appear or seem to be right to those who participate or are affected by the decision.

The Chairman: Would you like to wind-up your questioning, Mr. Munro?

Mr. Munro: Then the whole basis and substance of this legislation is to devise some procedure whereby unions not affiliated with the CLC may appear before this Board with the feeling that even though they may represent only a minority interest, that interest will be protected and they will be given an impartial decision.

Mr. Nicholson: That is correct.

Mr. Munro: And this is the only method you have been able to come up with to achieve that end.

Mr. Nicholson: That is right.

The same thing applies, if I may use the illustration, to the Teamsters Council presenting a brief. They have 40-odd thousand members in this country and they have no representation at all on the Board. In their case, the composition of the Panel would not make too much difference, and they would get a decision. But if they had thought that the Chairman in that case may have nominated one representative from the CNTU and one from the CLC, or two from the three CLC affiliates, that particular teamsters group might have felt, because they had no representation whatsoever on the Panel, that the only way they could get a square deal would be to let the Appeal Board deal with it. That is one of the reasons, according to the Secretary of Labour in the United States that they decided to have a public interest board instead of a representation board, and their Board is a public interest one all the way.

Mr. Allmand: Mr. Chairman, during questioning Mr. Lewis pointed out that the Board already had certified 27 regional units, and he

asked if 27 regional units had been certified, why then the Bill? I would like to know how many of these 27 regional units or certifications came about after contestation by conflicting unions, and how many were granted in favour of the CNTU? Do you have that information?

Mr. Nicholson: I am afraid I cannot tell you. Mr. MacDougall might take note of the question and give you the answer this evening.

Mr. Allmand: It would seem to me that the purpose of the Bill is to correct an injustice resulting from competition between the unions with respect to regional units or a fragmentation of a national unit that had already existed. It does not concern itself with only applications for regional units.

• 1750

Mr. Nicholson: That is right.

Mr. Allmand: Then I will ask another question. I note that section 61 (2) of the present Act allows for a review by other members of the Board. How often has that section been used to review a decision already taken?

Mr. Nicholson: I am told approximately 100 times over the last 20 years.

Mr. Allmand: Do all nine members usually sit or is there often less than that number when the Board makes a decision on certain cases?

Mr. Nicholson: I explained that last week. One member, through illness or pressure of business, may not be able to attend. They may sit with seven, eight or nine.

Mr. Allmand: What is a quorum?

Mr. Nicholson: A quorum is three.

Mr. Allmand: Is it very often that only three sit when decisions are made on certifications?

Mr. Nicholson: No, I would think not. There might be other matters of business that a quorum of three could handle very effectively. However, if a serious question comes up requiring the exercise of judicial discretion on the appropriateness of a union, I am old that generally seven, eight or nine members sit on the Board.

Mr. Allmand: Proposed section 5, dealing with appeal, says that:

... the Governor in Council may appoint two other persons representative of the

general public who shall be members of the Board for the hearing and determination of appeals...

Is it your intention that these two should be appointed on a permanent basis or on an *ad hoc* basis for every issue that arises?

Mr. Nicholson: They would be appointed permanently in the same way as the vice-chairman is appointed today. Actually, he happens to be a senior civil servant and he is called upon to sit perhaps once every two or three months. They would be permanent appointments but, like members of a board of directors, they would come once a month or once every two months, as they are called.

Mr. Allmand: For these appeals?

Mr. Nicholson: Yes. Although they get a *per diem* allowance for the days that they attend, civil servants do not get any special allowance.

Mr. Muir (Cape Breton North and Victoria): May I ask the Minister if during the hearings before the Board simultaneous translation, as we have it here, could be used?

Mr. Nicholson: Of course it is used now, when required. This has been a development of the last 15 months.

Mr. Muir (Cape Breton North and Victoria): Thank you.

Mr. Nicholson: In any case where simultaneous translation is required it is available today and is used.

Mr. Muir (Cape Breton North and Victoria): Some months ago, prior to the introduction of the Bill, I queried officials of the Department of Labour about it and was advised that the changes would be very minor.

Mr. Nicholson: I do not know how any officials of the Department could give that advice because this Bill represents government policy. However, I should add that we welcome their advice. It is a pretty good department, and I like working for them.

Mr. Muir (Cape Breton North and Victoria): I certainly think so too. But if the changes are as minor as I thought they were, I find it strange that we have such strong opposition from so many, many unions. For instance, the Canadian Labour Congress assert that they represent a million and a half trade union members, which I assume is a rather large body.

Mr. Nicholson: Yes.

Mr. Muir (Cape Breton North and Victoria): One point they made is that introduction or adoption of this Bill would destroy the efforts which have been made to narrow regional differences in respect of wages and living standards. They say that Bill C-186 will have the effect of widening these differences.

Mr. Nicholson: I certainly do not accept that. If I thought for one moment that was the case then I would not be sponsoring the Bill in the manner that I am.

Mr. Muir (Cape Breton North and Victoria): If the Bill is so laudable why are we deluged with strong opposition from right across this country?

Mr. Nicholson: I would say one reason is that a great many of these people never saw the Bill nor read it. They have been asked to sign cards that were circularized and sent in here. One member of the House of Commons that I know of sent back to his constituents a letter saying, "I have received your protest. Would you tell me what section of the Bill you are objecting to and why?" He never received a reply. Some people just like signing petitions and circularizing them. I know people who have signed two completely diametrically opposed petitions.

Mr. Muir (Cape Breton North and Victoria): Mr. Minister, that could be so, but are you suggesting that Donald MacDonald, Acting President of the CLC, or his officials do not know anything about this Bill, and that they do not know what they are talking about?

Mr. Nicholson: Of course Donald MacDonald is an intelligent fellow.

Mr. Muir (Cape Breton North and Victoria): I think so.

Mr. Nicholson: But I do say, human nature being what it is,—

Mr. Muir (Cape Breton North and Victoria): Is he a member of the Board?

Mr. Nicholson: Yes, he is. He is Acting President & Secretary-Treasurer of the CLC and does a very efficient job in their interests, but he sits in judgment on CNTU applications. That is an example of where a person's philosophy, and mental approach to things is bound to enter into a decision in respect of the fellow on the losing end, even though Mr. MacDonald, in his own mind, undoubtedly thinks the decision is fair.

Mr. Muir (Cape Breton North and Victoria): You stated in your opening remarks that the government was committed to the principles of the Bill and the adoption of same at an early date. With regard to this Bill, is the government or members of the government committed to any particular group?

Mr. Nicholson: No. I think I mentioned the personnel of the *ad hoc* committee that we set up, although I may not have mentioned all of them. The Chairman of the Committee was a senior privy councillor, Mr. Winters, Minister of Trade and Commerce. We also had Mr. Sharp, Mr. Sauvé, Mr. Robichaud, Mr. Teillet, Mr. Drury, and Mr. Paul Martin at some of the meetings but not at all of them. Having served with these distinguished gentlemen for many years I can say that they do not represent any particular segment.

An hon. Member: Except their ridings?

Mr. Nicholson: Except their ridings. If one can bring forward a bill which carries the judgment of a cross-section of the Cabinet, such as I have given you, and the support of the Cabinet itself, it speaks well of it. It is the principle that we are fighting for here, not any particular union group.

Mr. Muir (Cape Breton North and Victoria): I might add, Mr. Chairman, that all I am trying to do is represent the feelings of the constituents of my riding.

I have a supplementary and then I will be finished. Perhaps you cannot speak for the person to whom I have referred but would any commitment have been made by anyone now in the government who had a previous connection with the CNTU that this Bill would be introduced?

• 1800

Mr. Nicholson: I cannot answer that question; I do not know. I do know that this bill represents the consolidated and considered opinion of the government, not of the individual person. These are the views of government.

Mr. Muir (Cape Breton North and Victoria): Thank you. That is all for now.

The Chairman: Gentlemen, that concludes the questioning of the Minister so if we could wind it up now we could start...

Mr. Lewis: I have to get back to the chamber and I wanted to hear the other questions.

Mr. Nicholson: I would like to be here with Mr. MacDougall when he is giving his evi-

dence. I can be here at 8 o'clock but I cannot be here next week.

Mr. Gray: May I make a suggestion? Would it be possible to reconvene in the Railway Committee Room where we would have a little more space?

Mr. Nicholson: There is a problem of the simultaneous translation.

Mr. Gray: I think they were equipped in there this morning when they had a meeting of the Finance Committee. Now, it may have been dismantled; I do not know. I just make the suggestion that you may want a little more room.

The Chairman: It is a good suggestion, but we will meet here again at 8 o'clock.

EVENING SITTING

Thursday, February 8, 1968

The Chairman: I see a quorum.

For the purposes of obtaining copies, in English and in French, of the Industrial Relations and Disputes Investigation Act, for the availability of Committee members, and witnesses who may require them, I will entertain a motion to the effect: that the Clerk of the Committee be instructed to obtain 30 copies in English and 15 copies in French of the Industrial Relations and Disputes Investigation Act for the use of the Committee.

Mr. Lewis: Could you add to it, Mr. Chairman, the rules and regulations of the Act?

The Chairman: All right. The motion reads: That the Clerk of the Committee be instructed to obtain 30 copies in English and 15 copies in French of the Industrial Relations and Disputes Investigation Act and the rules and regulations under the Act for the use of the Committee.

Mr. McCleave: I so move.

Mr. Lewis: I second the motion.

Motion agreed to.

Mr. Mackasey: Mr. Chairman, I have a point that I am sure is non-controversial.

The Chairman: I cannot imagine.

Mr. Mackasey: I am ill at ease by the fact that we have on this table, so many implementers for translation, more than are adequate for the number of members, and yet I know

that there are many people interested in the hearings, who do not understand both languages. I am wondering if perhaps at the next meeting, we might, in some way, be able to reorganize some of this equipment so that interested people from the different unions may have an opportunity to follow the dialogue in French or in English.

• 2010

The Chairman: The next meeting, I hope, will be out of this room.

Mr. Mackasey: I do not know if it is proper for interested spectators—and we have so many here this afternoon—to use the interpretation equipment.

The Chairman: We will be out of this room next time.

All right, to wind up the questioning of Mr. Nicholson, the last person I had on my list was Mr. Grégoire.

Mr. Grégoire: Mr. Minister, at clause 2, you mention that you will appoint a second vice-chairman for the purpose of having one bilingual commissioner on that Board. Will the two members on the Appeal Board both be bilingual, too? They have not been appointed yet.

Mr. Nicholson: No, they have not. My feeling is, and I know it is shared by the majority of my colleagues in the government, that although it may perhaps be highly desirable if all the members of the Board were bilingual, at least the presiding officer, in a particular area, should be able to converse in both languages.

When your hearings take place and you have simultaneous translation, it is not absolutely essential, though it may be desirable, that all members should be bilingual.

An hon. Member: Yes, but it is desirable that the chairman should be.

Mr. Grégoire: Yes, but you take special advantage in appointing a second vice-chairman so that you have a bilingual one. And when the opportunity arises to name two members to the Appeal Board you will not make it a principle that they be bilingual.

Mr. Nicholson: Not necessarily; they might be members from the West.

Mr. Grégoire: So they may not be able to understand French.

Mr. Nicholson: No, but on the other hand, you are getting simultaneous translation.

• 2015

Mr. Grégoire: But you see what happens to the simultaneous translation. We have it here but I have to speak English anyway, because it is not working. So you will rely on simultaneous translation and not apply the same principle to the Appeal Division.

Mr. Nicholson: Not necessarily.

Mr. Grégoire: On that I cannot agree with you, Mr. Minister. It does not work.

The Chairman: Mr. Grégoire has been good enough to continue in English until we get it fixed up, and I appreciate it. It is a technical problem.

Mr. Grégoire: So, no pressure can change your mind so that at least one of those might be bilingual? Even though you say, Mr. Minister, that we have simultaneous translation, it is never the same.

Mr. Nicholson: I quite agree.

Mr. Grégoire: You say you appoint a second vice-chairman so that you can divide the Board and have groups here and there, and you say that the group with the bilingual vice-chairman will go to Quebec; and when these groups have an appeal to make, they will not have a bilingual judge.

Mr. Nicholson: They will have a bilingual judge; the chairman certainly would be bilingual.

Mr. Grégoire: Is it necessary that the Chairman be bilingual? Is he now?

Mr. Nicholson: No, he is not. That is one reason why we want to change the Act.

Mr. Grégoire: Yes, but will the Vice-Chairman who will be appointed and who will be bilingual be on the Appeal Board, too?

Mr. Nicholson: There will be either a Chairman, or a Vice-Chairman on the Appeal Board. If there is a dispute between a union associated or affiliated with the CLC and one with the CNTU, I assume that the Chairman of the Board would make sure that whoever presided on the panel would be bilingual, and whoever presided at the hearing of the appeal would be bilingual.

I would say this: that when making appointments to a tribunal in a field as sensitive as this, I think the government would give serious consideration to trying to get people that are bilingual whether their mother tongue is French or English, and that it is

desirable, if you can get them with the appropriate background, that they should be bilingual.

As was suggested today, consideration might be given to writing into the legislation that one or other of the Chairmen should be bilingual.

[Translation]

Mr. Grégoire: Mr. Minister, I understand that two judges will be appointed to decide appeals. At that moment, will the chairman or the two vice-chairmen sit with the two judges in appeals?

[English]

Mr. Nicholson: No, not both. There would only be one Chairman sitting whether it is a panel or whether it is an appeal.

[Translation]

Mr. Grégoire: Only the chairman?

[English]

Mr. Nicholson: Only one chairman.

[Translation]

• 2020

Mr. Grégoire: If the chairman is not bilingual, nor the two judges, then everything will be done by simultaneous interpretation (which is clearly of inferior quality); do you not feel it would be preferable for the two judges who will sit in on appeals to also be bilingual?

[English]

Mr. Nicholson: There is an advantage, certainly, in having people that are bilingual, but I think it is more important first to have a chairman who is bilingual, and secondly, it is more important to have people with the right qualifications, background, training and experience to enable them to exercise independence of thought and to make the right judgment when a decision has to be made and with the assistance of simultaneous translation this can be done in the same way it is done in our courts. In the Supreme Court of Canada there are two judges or five judges sitting on appeals from Quebec where the arguments are conducted in French but some of the jurists are not bilingual.

[Translation]

Mr. Grégoire: Yes, but you mentioned, in giving this example this afternoon, that at least the chief justice would arrange that those who understood French would take part in the panel of judges of the Supreme Court. But

when you tell us that it is not your intention that the two judges in the court of appeal be bilingual, then you will not have one, in the court of appeal, who will really understand the decision or witnesses when the appeals are in French.

[English]

Mr. Nicholson: In the first place, as I said, if they can get—and I would hope they could—people with the qualifications, experience and knowledge of the labour-management problem generally and who are also bilingual that is fine, but I do not think that should be written into the Act because you are going to have the advantage, I hope, according to the established practice of simultaneous translation. The important thing is to make sure the Chairman is bilingual. If you can get others who are bilingual, so much the better.

[Translation]

Mr. Grégoire: But, Mr. Minister, you have not included in the act that the second joint chairman would be bilingual or French-speaking, but you declared your clear intention that he be bilingual.

[English]

Mr. Nicholson: I did, Mr. Grégoire. A member of the Committee—I am not sure who it was—suggested this afternoon that consideration might be given by this Committee to stipulate that one of the members should be bilingual. It is the government's intention to appoint somebody bilingual and I would think that sympathetic consideration would be given to such a suggestion if this Committee so recommended.

[Translation]

Mr. Grégoire: Now, without including it in the act for the two judges in the court of appeal, are you prepared to express the same intention that these two persons be bilingual, as explicitly as you did for the second vice-chairman?

[English]

Mr. Nicholson: I certainly am not in a position to know of the difficulties that may be encountered in attempting to get the types of people who happen to have the ability and the good fortune to be able to speak both languages to sit in the majority of these cases. I would not want that written into the legislation, but I can see no reason, subject to discussion with my colleagues in government, why it should not be made a condition that either the Chairman or the Vice-Chairman be bilingual.

[Translation]

Mr. Grégoire: But for the judges in appeal, do you have the same intention?

[English]

Mr. Nicholson: No, I think we would try to get somebody who had that advantage—I am repeating myself, I have said this three or four times—but I do not think that should be written into the legislation.

[Translation]

Mr. Grégoire: Mr. Minister, is it because you are afraid that you will not find any, or that there are none in Canada, who are competent, as competent, and bilingual at the same time. Are you afraid of not finding any?

[English]

Mr. Nicholson: I know it is difficult to find men to fill particular jobs and in this case the man also has to have had the right background and the right training in this field. I am only repeating myself as I have said this three or four times.

Mr. Grégoire: It surprises me to see that you lead me back from the vice-chairmen to the judges on the panel whereas I still wish to speak of the judges in the Court of Appeal. You lead me back to the vice-chairmen whereas I am concerned only with the judges handling appeals.

Now, Sir, if you were to find very competent persons who spoke only French and no English at all, would this be an objection to their nomination?

Mr. Nicholson: I would think not. Not as far as I am concerned.

[Translation]

Mr. Grégoire: And the last question: when the term of the present chairman of the Canadian Labour Relations Commission is finished, are you also going to see that his successor is bilingual?

[English]

Mr. Nicholson: That certainly is a factor that will be considered.

Mr. Grégoire: Thank you.

Mr. Reid: Mr. Chairman, I would like to ask the Minister some questions concerning the appeal clause—clause 5—which amends Section 61. As you stated earlier, I believe in reply to a previous question, clause 1 in the Bill merely clarifies existing powers. There is no change there?

Mr. Nicholson: There is no extension of powers.

Mr. Reid: There is no extension of powers.

Would the Appeal Board not be forced to make its decisions on appeal based on the previous jurisprudence of the board's decisions?

Mr. Nicholson: Pardon?

Mr. Reid: Would the appeal board be forced to make its decisions on a criteria that the Canada Labour Relations Board was already using to make its decisions? In other words, would there be a change in the way in which the board does things?

Mr. Nicholson: I am afraid I cannot answer that. The board has the right to make regulations and they have built up a system of jurisprudence.

Mr. Reid: Yes, that is my point. Would the Appeal Board reverse all this jurisprudence that had been built up by the board or would it be limited by the criteria in the Act?

Mr. Nicholson: It would be limited by the criteria in the act.

Mr. Reid: As previously interpreted by the board?

Mr. Nicholson: Not necessarily, because the Appeal Board will be dealing only with this one limited area of appeal. In the final analysis the judgment would be made by the Chairman or the Vice-Chairman and the two public interest members who comprise the board.

Mr. Reid: Would this Appeal Board be permitted to hold new hearings or would it have to abide by the previously submitted evidence?

Mr. Nicholson: That, of course, would depend on what regulations were passed under clause 4 of the Bill. The board can make appeals—there are two types of appeals. In law, for instance, if a man is not punishable on summary conviction, there is an appeal to the county court or district court judge or there is a hearing *de novo* and the judge hears the evidence all over again. There is another type of appeal where the court of appeal will hear the testimony of the witnesses who appeared in the original trial court. I would imagine that under this clause the board could make rules that would cover this situation.

Mr. Reid: Yes, but my particular worry is with the possibility of the appeal board going

through the whole exercise again and setting up its own interpretation of the criteria of the board. In other words, there could be a new hearing plus possibly, a new interpretation which would then have the effect of redirecting the board into certain other areas where perhaps it had not gone before. Would there be hearings *de novo*?

• 2030

Mr. Nicholson: That would be open to the board. I cannot give you a legal opinion.

You will notice that in addition to clause 4 which provides for rules,

The Board may, with the approval of the Governor in Council, make rules...

clause 5 of the Bill, subsection (3) at the bottom of page 4 of the draft Bill, provides:

The appeal division of the Board may, with the approval of the Governor in Council, make rules respecting the procedure to be followed in connection with appeals under this section including the time within which and the manner in which any such appeal may be brought or taken."

I imagine they could set rules. To say "no, we are going to interpret the evidence that has already been given", or "there be a hearing *de novo*". I had not considered that point but I think it would be open to that. I would rather not give you a legal opinion. It would seem to me that in a great majority of cases the issues would be pretty clearly defined at the panel hearing in the first instance. When it comes to an appeal the issue would be relatively simple. Counsel can usually put an issue pretty clearly to an appeal board.

Mr. Reid: I would like to follow up one point that Mr. Grégoire raised, and that concerns the chairman of the Appeal Board. Would the chairman of the Appeal Board be the same chairman or vice-chairman who had heard the original case, or would it be one of the two vice-chairmen or, if a vice-chairman had been hearing it, the chairman or the other vice-chairman?

Mr. Nicholson: I think if you had a second vice-chairman or a chairman who was bilingual you would try to get a third person to sit on an appeal. I think it would be more important to have a bilingual man on the appeal to make sure that at least one of the three was bilingual and understood the second language.

Mr. Reid: The point I am trying to make, though, is: when the Appeal Board is set up to hear a particular case would it be made up of three individuals who had not had any connection with the previous case? Clause 5, the proposed new section 61A of the Act, indicates that there will be two additional appointments to the Board who will sit only in appeals. My question is this: Would any other member of the Board who had participated in the original hearing be the chairman of that Appeal Board?

Mr. Nicholson: I hope not, but if it were a case where they needed a bilingual chairman it might be possible to have the bilingual man chair the Board. He might have chaired the Board in the first instance. I would hope that could be avoided.

Mr. Reid: Yes, so would I. I pass, Mr. Chairman.

[Translation]

Mr. Clermont: Mr. Chairman, one of the amendments on the Bill C-186 proposed to provide for the establishment of divisions of appeal in the Board to hear cases separately instead of using the Board as a whole. According to the documents we received from the CLC and according to the statement which you made in the House, the reason for the establishment of these panels would be to speed up rulings of the Board, even if the same documents inform us that the CLC meets but two, three or four times a month.

[English]

Mr. Nicholson: If my memory serves me right, and I am reasonably sure, I stated there were two reasons for suggesting this course, and one was of much greater significance than the other.

The first one was that it might enable the Board to sit in panels and thus expedite the work of the Board. You could have one sitting in the east and one in the west.

But the much more significant reason, the second reason that I gave, was to ensure equal representation when the hearing takes place. In other words, the chairman, in setting up a division or panel to hear the appeal, would make sure if it was a dispute between a CLC union and a CNTU union that one from each of those unions was represented on the panel. I think that is the more significant reason.

As I said—and I am only repeating myself again, Mr. Clermont—not only must justice

be done but it must seem to be done. Unless you have that balance, when you get a representation board, it certainly is not going to seem to be done.

• 2035

[Translation]

Mr. Clermont: Mr. Chairman, with regard to the Appeal Division, under clause 5 of the present bill, and if I refer again to the documentation that we got from the Canadian Labour Congress, I regret there was no date, on page 3, I read this:

If we were to accept such a proposal and form a small appeal tribunal which would represent neither the management nor the trade unions, but which would have the power to reverse the decisions of the other Board, a body of carefully chosen experienced people, we would destroy the principle according to which we must appoint representative citizens to Government boards.

[English]

Mr. Nicholson: I am afraid I cannot accept that submission. It has been made to me before; I have heard it on a number of different occasions. The Act says in the section I read this afternoon that there should be equal representation of employers and employees on the Board. If we have this system of panels or divisions I would certainly hope that the chairman, in choosing a panel, would make sure that there would be no preponderance of membership one way or the other.

That can be done by having one from the CNTU, one from the CLC and, on the management side, there might be a French-speaking member from the Province of Quebec and an English-speaking member from some other part of Canada.

An hon. Member: At the hearings in the first instance?

Mr. Nicholson: Yes.

[Translation]

Mr. Clermont: Thank you, Mr. Chairman.

[English]

The Chairman: Mr. Muir, on a point for clarification.

Mr. Muir (Cape Breton North and Victoria): Mr. Chairman, first I want to make an observation. I am sure that the vast majority in this room, even by the greatest stretch of imagination, did not hear the Minister say or

even remotely suggest that a capable French-speaking person could not be found. He would not think that way. I know him well and he is a good Maritimer. He would not think that way and he would not say such a thing.

Mr. Grégoire: That is what I heard him say.

Mr. Muir (Cape Breton North and Victoria): No, that is not so.

Mr. Grégoire: You said that, though.

Mr. Nicholson: Said what?

Mr. Grégoire: That you would have difficulties, or you could not find a good bilingual person.

Mr. Nicholson: I said that when you get into a situation of this kind you have to look for the qualifications; if you can get people whose mother tongue is French, there is no reason why they could not both be French.

Mr. Grégoire: Yes, but the question is this: Do you think you can find a good, qualified man who is bilingual?

Mr. Nicholson: I would hope so.

Mr. Grégoire: You just hope?

Mr. Nicholson: I do not know the situation well enough. I do know that I have met many people in the labour relations field, some of them in this room . . .

Mr. Mackasey: Mr. Chairman, on a point of order.

Mr. Nicholson: I would like to answer that question. On that particular point there are many in this room who would have the qualifications of which you speak. But I am not prepared to write them into the legislation. I would not recommend that.

Mr. Grégoire: That is not what we asked you—We asked your declaration of intentions.

The Chairman: Just a moment. Mr. Muir has the floor.

Mr. Muir (Cape Breton North and Victoria): I just wanted to have this cleared up because that is not the way... Pardon me for a moment, will you? I have the floor even though I am sitting down.

I did not hear it that way and I fully agree that this is not what the Minister said or even suggested. I do not think he would do such a

thing. He said that he hoped so in connection with your most recent question. I am sure he would say, "I hope so." if someone posed the question of whether he could find a capable English-speaking representative for the Board.

Now, Mr. Minister, I do not know the position of this Board. If they are not civil servants, which probably they are not, has any consideration been given to having them take French lessons—total immersion courses? Why should we mess around on this thing? I think every facility should be extended to the point where any union representatives, if they speak French only, should have every opportunity to express themselves before the Board along this line in that language.

Mr. Nicholson: I favour that.

Mr. Muir (Cape Breton North and Victoria): I was just wondering, sir, if any thought had been given to the members of the Board taking these courses. After a period of time I am sure they all would be fluently bilingual; have the courage to do it.

Mr. Nicholson: I took a course when I was in my middle fifties. I found I was on the wrong side of 50 and I did not make too much progress with my French, but I did my best.

Mr. Muir (Cape Breton North and Victoria): I would agree, sir. It would be quite difficult but I think it is a reasonable proposition.

Mr. Nicholson: I think it is, too. I think they should be encouraged. I think all members of boards in Canada that are going to hear representations in one or the other language should be encouraged to learn the other language and the many facilities the government has to encourage that course of action should be put at their disposal.

Mr. Muir (Cape Breton North and Victoria): Thank you.

The Chairman: Mr. Knowles, do you want to demonstrate the merits of the three-week total immersion course?

Mr. Knowles: I think it would be better to let it stand. But it is a good course, Monsieur le président.

I would like to return, Mr. Nicholson, to a point that you have made a number of times. You have argued that when the CLRB was set up there were four labour groups in the country, and that it was appropriate to have

one from each; whereas now you can tender only two.

It seems to me, Mr. Chairman, that this is hardly in accord with the reality of the situation. When the CLRB was set up there were, in this country, a Trades and Labour Congress and a Canadian Congress of Labour; there were also railway brotherhoods but they, as unions, were affiliated to the Trades and Labour Congress of Canada in these matters and at the ILO and in other respects. The railway brotherhoods, by virtue of their size and the special interest that they had in the national scene, had been given this special recognition.

The fourth group was what was then known as the CCCL, the Canadian and Catholic Confederation of Labour.

Today it might appear that there are just the two bodies, but in effect the old TLC and CCL have become the CLC, and the railway brotherhoods are still the same unions that were affiliated to the old TLC; they are affiliated to the CLC.

The individual unions that these groups represent are still about the same; they have all grown a bit; but the CLC and railway brotherhoods representatives on the CLRB represent today the same 100 or more unions in Canada that were represented previously. I submit that the labour picture in Canada has not changed in substance.

Perhaps you might comment on that, but before you do let me put another question to you. You keep repeating that things have not only to be fair, but seem to be fair, and you call for equality of the representational membership on the board. You come from British Columbia, where you are a little better off in this respect than we are in Manitoba. In Manitoba we have only 14 members in the House of Commons. We sometimes feel that we are terribly out-voted by Ontario with their population six or seven times as large as ours. It would be far better for us if we were equal, if we had the same number of members from Manitoba as Ontario has; but we have to accept the representational fact that Ontario has a population six or seven times larger than that of Manitoba.

An hon. Member: You ought to be trying to rectify this!

Mr. Knowles: I do my best; but come the next election it is going to be worse. We are going to...

Mr. Nicholson: On the other hand, may I say that when one gets into the House of Commons party representation in most instances is not provincial. Your party, for instance, has representatives from several provinces. The party with which I am associated, or identified, and of which I am proud to be a member, also has representatives sitting in parliament from six or eight of the provinces. It is a composite...

• 2045

Mr. Knowles: Whether you put it on a geographical or a party basis we have to accept the fact that parliament is of a representational character. It seems to me that...

Mr. Munro: The members of parliament are democratically elected. You are not suggesting that there is any true analogy here?

Mr. Knowles: I am suggesting that the people of Manitoba feel that they get the short end of the stick on a good many things because, our numbers being so small, we are out-voted in the other sections. You have got to accept the fact.

Mr. Nicholson: Northern Ontario feels that way, too.

Mr. Knowles: Well, if you fellows in Northern Ontario would just become part of Manitoba it would re-adjust the balance. Here we have a situation where one group of union members has five or six times as many as the others. It seems to me that it is just as unrealistic for them to have equal representation as it is for us in Manitoba to say that we should have the same representation as Ontario.

Mr. Nicholson: There is this basic difference, as I see it—and there may be others—that in parliament politics play a part in union matters. Politics are always important in most union affairs. But when it comes to deciding whether a particular unit—a particular group of people—is appropriate for purposes of collective bargaining, is the test which we make, that of exercising judicious functions and not exercising political judgment? Which way is it...

Mr. Knowles: Which way do you want it, Mr. Nicholson? Do you prefer that these be representational people or that they be judges?

Mr. Nicholson: I want them to be judges; but I do think...

Mr. Knowles: But you have argued, and Mr. Marchand has argued in the House, that we have to be realistic and to admit that these people represent their interests. You have said that about a conciliation and arbitration board, as well. It seems to me that you should decide on one thing or the other. Either they are judges or they are representative of the people.

Mr. Nicholson: We are trying in this Bill to give you the best of both worlds. In the great majority of cases there will be no jurisdictional dispute between the labour unions that are applying for certification. Therefore, in those cases you have no representational board; and if there is a dispute between a union affiliated with the CLC, or the CNTU, you have a panel on which the dice will not appear to be loaded one way or the other.

You will also have a public interest board sitting in appeal and it will exercise the judicial discretion necessary to make the judgments that are warranted. You are going to get the best of both worlds—I hope.

Mr. Knowles: Incidentally, Mr. Minister, it seems to me that a good many times today you have used phrases such as “I hope”, “I would think”, “I would hope”, “I would hope not”, and “I assume”. It appears that a great deal of this has been left to some kind of hope.

Mr. Nicholson: All I can say is that I have enough confidence in the judiciary of this country to know that, regardless of their political backgrounds, they decide a case on its merits. I also happen to know, from experience, that in the case of representation boards this is not always the case.

In cases where the aspect of jurisdictional dispute is not of consequence you can use your representation features, but if there is a showdown you have the panel, and the public interest group at the top making the final decisions.

Mr. Knowles: One thing about your testimony, Mr. Nicholson, is that you put things right out in the open. What you have said is that if there is no issue—if it is unanimous—there can be representational activity, but if there is...

Mr. Nicholson: No, I am not saying that. Let us suppose that the dispute were between two unions with no connection with the CNTU at all. Suppose it is a dispute between one of the unions affiliated with the Canadian

Union of Public Employees and another group affiliated with the CLC. I would hope that each of them would be on this board, and that you would not allow the CNTU member on the panel at all. I said that if you are going to have two labour representatives on a representative board, and there is no CNT union involved, there is no reason for the CNTU member's being designated to sit on that panel. We could have a railwayman, suppose it were—no I am not thinking of the Teamsters; I am thinking of Bill Smith's outfit...

• 2050

An hon. Member: CBRT?

Mr. Nicholson: ... CBRT. If you have a dispute between the CBRT and the B. of R.T. you need not have a CNTU man on the panel at all.

Mr. Knowles: It seems to me, Mr. Nicholson, what you are now telling us is that in every case the panel will be picked to suit.

Mr. Nicholson: Is there anything wrong with that?

Mr. Knowles: Yes, there certainly is. It strikes me that justice is going to be tailored to suit the situation.

Mr. Nicholson: No, but you are going to avoid the suggestion that the dice are loaded against one side or the other.

Mr. Knowles: I have not your confidence that under this situation the dice will not be loaded because the panel is going to be picked; it is going to be tailored to suit each individual case.

Mr. Grégoire: Stanley, I have seen you better than that.

Mr. Knowles: Earlier today Mr. Nicholson, you also made the point that one of the reasons this whole thing has come out into the open is because of dissatisfaction in recent years, more dissatisfaction than there was earlier. We tried to pin you down for some information, how the votes went and so on, and you kept telling us there was no record.

Mr. Nicholson: Unless there is dissent expressed for recording. I referred the other day to one case where a dissent was recorded. In the first CBC case a dissent was recorded and I mentioned that here the other day.

Mr. Knowles: Well if dissent is recorded in that particular set of minutes then we know.

If there is a record of those who were present and somebody dissented that gives us the vote. If there is a record of those who were present and there were no dissent that gives us the vote. They were all for it.

Mr. Nicholson: Not necessarily.

Mr. Knowles: Not necessarily.

Mr. Nicholson: So I am told.

Mr. Knowles: Well, I am afraid I do not accept that. In the opinion of the voters in our constituencies, if we did not say "no" to something, that went through the House of Commons, we must take the responsibility for it having passed. That is the reason my friend Gilles says, "On division" so often, he wants to be in the clear.

Mr. Gray: Mr. Chairman, we have the administrative officer of the board as the next witness. Perhaps he will be in a position to tell us what the practice and procedure of the board is.

Mr. Knowles: I hope, Mr. Chairman, before we are through we go even further than the administrative officer of the board; I think we should have the board itself here.

Mr. Nicholson: I hope that that will not happen.

Mr. Knowles: Well, I do not know, you said so much about this board.

Mr. Nicholson: They are functioning in a judicial or quasi judicial capacity.

Mr. Knowles: But the whole implication of this legislation is that this board is not doing a satisfactory job when the chips are down. I think we have the right...

Mr. Nicholson: All I said was, again I am only repeating myself, that it is important justice seem to be done and the person who is on the receiving end must feel satisfied he has had a square deal from the board. I think that is only equity, and that is only justice.

Mr. Gray: I presume, Mr. Chairman, we are going to have at least one member of the board before us, Mr. Donald MacDonald, Acting President of the CLC?

Mr. Knowles: Mr. Chairman, I did not intend to be as long as this but having said that may I pose two brief questions and I will put them at the same time.

My first one is this. As the CBC case seems to be the instance that brought this whole

thing out in the open, why was consideration not given to legislation to meet that particular situation rather than going into the whole picture? I am going to ask my question and get it on the record. Relating to that, I put this question: you mentioned that in 20 or more cases regional requests were granted. Did any of those cases result in the breakup of national bargaining as some of us feel this legislation will make possible?

• 2055

Mr. Nicholson: I cannot answer the second question and on the first question I do not think there is very much I can add to what I already said. I think I answered that first question.

Mr. Knowles: I do not think you have.

Mr. Mackasey: Mr. Chairman, on a point of order? I raise a point of order because I do not know the procedure we are following, but everything being said here will be recorded. Now Mr. Knowles made a statement a few minutes ago that I feel should be challenged because it would be unfair to the Minister if it appears on the record. He said that the Minister had stated earlier in the day whenever the chips were down the board had not acted fairly. Now the Minister never made any such statement.

Mr. Nicholson: I thought I had answered that and corrected it.

Mr. Mackasey: No, you did not correct it. Perhaps, Mr. Nicholson, you might correct it for the benefit of the record.

Mr. Nicholson: What I said was that from my knowledge, and I have devoted a fair amount of time to the work of this board, the board had acted conscientiously. I have gone further than that and said that regardless of how conscientious a man may be his decision is often influenced by his views in certain fields no matter how upright and honourable he may be and he looks through certain coloured glasses. I use the illustration of the representatives of management and labour on conciliation boards. History shows that. I am not questioning the integrity or the depth of these men, or the debt that we owe them for the job they have done but I do think the time has come to correct something.

Mr. Knowles: Well I do not know quite what Mr. Mackasey's point of order was, but it seems to me that Mr. Nicholson has again repeated his position. He thinks the board is

doing a conscientious job but he does not like some of the results so the rules have to be changed.

Mr. Nicholson: It is not that I do not like some of the results, I am saying that many thousand citizens of this country think that the situation needs to be corrected. They have made representations to government as they have a right to do and as I have heard you do, Mr. Knowles, on many occasions in Parliament. These representations were made to us by Mr. Pepin and others. We thought their representations were reasonable, the situation needed correction, and we recommended to Parliament that it be corrected.

Mr. Knowles: Nobody is arguing with that but the other side also has the right to make representations.

Mr. Nicholson: Certainly, and they have made them. We had reference to some of them here tonight. If I may say with respect, I think some of the representations that have been made are very extreme. I could use other adjectives but I am not going to.

Mr. Knowles: On both sides.

Mr. Nicholson: I do think the test in the final analysis is the board. The Canada Labour Relations Board, under this legislation, is going to have the right to say whether a particular unit, having regard to all the factors including national interest, is an appropriate unit for collective bargaining and the most important factor in most cases is the public interest. If they thought there was going to be a chance that some small group of 50 or 100 or 200 could fragment a nation-wide system, then I think if I were a member of such a board I would look at it very carefully. But that is not the situation, I say, certainly in the case of language and communication systems. The principles are quite different.

The Chairman: Well, gentlemen, that concludes the...

Mr. Lewis: If there are no other questions, I have two or three questions.

One set of questions, Mr. Nicholson, concerns phrasing you used, which if I may with respect say, is confusing and does not represent the fact before the board in labour relations. Let me put it to you this way. What the board decides is the scope of the unit; what is known as an appropriate bargaining unit. It then certifies a bargaining agent, a union to

represent the employees in that bargaining unit. The employees when they join a union do not join a bargaining unit. They join a union.

• 2100

Mr. Nicholson: They join a union, that is correct.

Mr. Lewis: And the union which organizes workers, particularly a union which thinks it wants a certain group of workers who are not already represented by another union, goes to the Board and in its application says that in their opinion the following, namely the Angus Shops, is an appropriate bargaining unit and the Board—the decision is published in the Labour Gazette—said no, that this is not an appropriate bargaining unit, the appropriate bargaining unit is all the craft shops across Canada.

Mr. Nicholson: Right.

Mr. Lewis: There is nothing in the law to prevent any union, and I do not care whether it is the CNTU, the CLC, the Teamsters, CUPE or any other union, going out and organizing all or a majority of the employees in the bargaining unit which the Board has decided to be appropriate.

Mr. Nicholson: I agree.

Mr. Lewis: And if the CNTU, for example, succeeded in organizing Weston Shops in Winnipeg and the Ogden Shops in Calgary that may be sufficient because I know a little about the representation in these shops—and got a majority of people in those three shops the Board would be bound by law to order a vote to allow the people in that bargaining unit to decide whether they wanted the various craft unions that now represent them or they wanted the CNTU.

Mr. Nicholson: Right. That is clear in subsection 2 in the interpretation section of the Act.

Mr. Lewis: That is right, Mr. Minister, that is clear in the Act. And what is clear is that it is possible that a union which wants to represent craft shops, craft employees of the railways, wants to limit itself to one shop. Now it is not only the Angus Shops in Montreal that would then be in that position, is it? The Angus Shops in Montreal can be claimed by the CNTU, and the Board in my opinion, would be bound to take into account your new amendment—and I do not agree with

your interpretation of it, as I suggested before—and certify the CNTU for the Angus Shops in Montreal, certify some organizations, the Teamsters or some other organization, for the Weston Shops in Winnipeg, and a third organization for the Ogden Shops in Calgary. Is that not the result of your law?

Mr. Nicholson: It might be if they considered that appropriate. They would have that power if they considered it appropriate.

Mr. Lewis: Mr. Minister, forgive me for putting you on the spot. Is it not your intention that this amendment should enable the Board to certify the CNTU for the Angus shop if the CNTU has a majority?

Mr. Nicholson: No. It is not our intention.

Mr. Lewis: Well, it is not one of the reasons—

Mr. Nicholson: No. We are leaving this to the Board.

Mr. Lewis: The Board has already said—

Mr. Nicholson: I will come back again to the one illustration that I have used, the one that I am most familiar with, the CBC situation.

Mr. Lewis: Well, Mr. Minister—

Mr. Nicholson: You asked me a question and I said “no”, but I can give you a concrete case. I do say very definitely and emphatically, and I have said it more than once, that where you have a group of people such as the French language system of the CBC who want to do their own bargaining, because of their combination of interests, rather than have themselves represented by the international group IATSE then I think that the circumstances in such cases are quite different from a shop in a railway system.

Mr. Lewis: Let me ask you this question then, Mr. Minister. Would you be prepared to withdraw the Bill which you now have before Parliament and bring forward a bill the contents of which will be that the Board is instructed, or in whatever way you want to put it, to hold that the French language operations of the CBC are an appropriate bargaining unit.

Mr. Nicholson: No, Mr. Chairman, I would not.

Mr. Lewis: Then I say to you, Mr. Minister, that you are misleading this Committee be-

cause if it is the CBC you have in mind that is what you have to do.

Mr. Nicholson: I used the CBC as an illustration.

Mr. Munro: Would you support that?

Mr. Lewis: I have already indicated to you that I might well support it, but if that is what you want to do, bring a CBC bill and not a bill that covers the entire federal industry.

Mr. Nicholson: I used that as an illustration.

• 2105

Mr. Grégoire: Why not?

The Chairman: Order.

Mr. Nicholson: I think there could easily be other situations similar to the CBC where similar considerations could arise. I used it because it is a better example. It is clearer.

Mr. Lewis: All right. The Minister has made it clear that the CBC was the reason for it but he is going to use it to go all over the industry.

Mr. Nicholson: I never said that, with all due respects.

Mr. Lewis: That is what you have done. It is not only what we have said.

Mr. Grégoire: Now you are misleading the Committee.

Mr. Lewis: What is the Bill about? Are there no French-speaking members in any unions in Quebec other than the CNTU, Mr. Minister?

Mr. Nicholson: Yes, of course there are.

Mr. Lewis: Would I be right in suggesting to you that the number of French-speaking members in other unions in the Province of Quebec may even be greater than the number of French-speaking members in the CNTU in Quebec.

Mr. Nicholson: It might be, I do not know.

Mr. Lewis: You have the information.

Mr. Nicholson: I have information that the total membership of the CNTU is approximately 250,000. I would not want to say exactly how many members there are in the Quebec Federation of Labour because I do not know, although I could get the figure for you readily. However, I would not be pre-

pared to tell you how many of those were French-speaking or English-speaking because I happen to know that some of the members of the Quebec Federation of Labour are English-speaking as opposed to French-speaking.

Mr. Lewis: Yes, of course and there are some in the CNTU.

Mr. Nicholson: The same with the CNTU.

Mr. Lewis: And the membership in the Quebec Federation of Labour, as reported to the Department, if I remember correctly is about 350,000.

Mr. Nicholson: I seriously doubt it but I would not attempt to give you the exact figures. I seriously doubt it.

Mr. Lewis: But there are many thousands of French-speaking members in the Quebec Federation of Labour.

Mr. Nicholson: That is correct.

Mr. Lewis: You have not ascertained whether the number is equal to, more than, or less than those in the CNTU.

Mr. Nicholson: No, I have not.

Mr. Lewis: I am now limiting myself to Quebec. Never mind the rest of Canada.

Mr. Nicholson: Yes.

Mr. Lewis: Has the other section of labour in Quebec asked you to produce this Bill?

Mr. Nicholson: No.

Mr. Lewis: Or have they opposed this Bill?

Mr. Nicholson: The Quebec Federation of Labour has of late.

Mr. Lewis: Yes.

Mr. Nicholson: At least some of them have because I have heard them opposing it on the air.

Mr. Lewis: What you are saying to us is that you are by this Bill satisfying the requests of one trade union centre in Quebec but ignoring the request of the other trade union centre in Quebec.

Mr. Nicholson: I am not saying any such thing.

Mr. Lewis: That is what I heard you say.

Mr. Nicholson: I am saying that the representations made by one group that happens to have a strong base in Quebec were sufficiently persuasive and convincing—and again I revert and say that when you have a large body of 250,000 members or more and a

situation arises where there are three votes to one and the decision goes against them—of course they will not complain if it is in their favour—some are bound to feel—as long as human nature is what it is a great many of them will feel—that they have not had a square deal, and they have made out a good enough case, so far as I am concerned, to try to correct it and to ask Parliament's support in doing so.

Mr. Lewis: You keep on saying about a fair and square deal. Did not the Teamsters complain and did not other unions who have been turned down by the Board complain to you that they did not get a square deal?

Mr. Nicholson: When word went out that this hearing was taking place the Teamsters asked for the right to be heard. We said we would be glad to hear them and they presented a brief.

Mr. Lewis: Have you never had complaints from unions affiliated with the CLC, who got turned down by the Board, that they have not had a square deal?

Mr. Nicholson: No, I have not.

Mr. Lewis: You have not?

Mr. Nicholson: No, I have not, and I can say that quite conscientiously.

Mr. Lewis: I believe you. I am just surprised because I have been told by some clients of mine that they have complained they have not had a square deal.

Mr. Nicholson: Not to me.

Mr. Lewis: No, to the department.

The Chairman: Mr. Mackasey.

• 2110

Mr. Mackasey: Mr. Chairman, I have only one or two questions of the Minister, who is a very prominent lawyer and I am not.

An hon. Member: He was.

Mr. Mackasey: I still think you are a prominent lawyer. Does it really matter whether or not the CSN or the CNTU have the majority of French-speaking workers in the Province of Quebec.

Mr. Nicholson: Not to me, there is no difference.

Mr. Mackasey: Has this anything to do with the Bill at all?

Mr. Nicholson: None whatever. So far as I am concerned, and I am sure I speak for the government—

Mr. Mackasey: Does a government always bring in a bill that is based on whether it pleases a majority or a minority?

Mr. Nicholson: No. The government should bring in a bill when it thinks the circumstances warrant it to correct an inequity.

Mr. Mackasey: Were you in the House, Mr. Nicholson, when Mr. Lewis made an eloquent plea on behalf of a single person in Canada, a man named Victor Spencer? Did he fight for that one man's rights?

Mr. Nicholson: Yes.

Mr. Mackasey: In other words, majority did not really mean a thing there. Now, in your opinion—you are the Minister, not Mr. Lewis—is there anything in the bill that adds to the present powers of the Canada Labour Relations Board that would cause the Board to recognize the Angus Shops as an appropriate unit? They did not do so in previous years; is there anything in this bill that makes them do this?

Mr. Nicholson: Not at all.

Mr. Mackasey: Are there any...

Mr. Nicholson: So far as I know the Board has no wider powers under this bill than it had before.

Mr. Mackasey: In other words, if they wanted to consider the Angus Shops an appropriate bargaining unit at the moment, could they do so?

Mr. Nicholson: They could have done so, yes.

Mr. Mackasey: In other words, they must have criteria other than just a geographical entity or a shop. Would there be other criteria?

Mr. Nicholson: Yes, they would decide what is appropriate having regard for all the circumstances.

Mr. Mackasey: Perhaps you can tell us the number of criteria without going into detail. Do you have any idea how many? Mr. MacDougall, perhaps you can inform the Minister.

Mr. Nicholson: I could name perhaps a half dozen. Mr. MacDougall tells me it would be one likely 12 to 15.

Mr. Mackasey: In other words, geography only one.

Mr. Nicholson: Geography is one and I think it would be a minor one.

Mr. Mackasey: Mr. Minister has the Board a function only for employees? Is this the main philosophy behind the Board?

Mr. Nicholson: The Board has a responsibility not only to employees but also to employers. It has a responsibility to the people of Canada as well.

Mr. Mackasey: In other words, this is the main...

Mr. Nicholson: In the final decision whether a particular unit is appropriate for collective bargaining, it is the public interest that counts.

Mr. Mackasey: Is there anything in the bill that prevents this philosophy from being dominant?

Mr. Nicholson: Not at all.

Mr. Mackasey: In other words, you feel there is nothing in the bill that would make the Board depart drastically from the jurisprudent or its previous rulings in the national units?

Mr. Nicholson: I think not. As I say, the framework would be different. You would have the panel system rather than the full Board sitting. You also would have the public interest group prepared to sit in appeal if either side, the employees or the employers, want to appeal.

Mr. Mackasey: Are there any powers that the Board has or the bill gives to prevent the French-speaking members of the CNTU in the Province of Quebec from joining the Quebec Federation of Labour if they so desire?

Mr. Nicholson: No, none whatever.

Mr. Mackasey: Or vice versa, Mr. Nicholson?

Mr. Nicholson: It is the other way around; I am told it happens all the time. But I am also told that some of them who have cards...

• 2115

Mr. Mackasey: The point I would like to make clear, Mr. Minister, is that first of all the Board establishes the appropriateness of the unit before it decides who is to represent the people in that unit.

Mr. Nicholson: That is right; but also there are certain mechanics to go through. The Board is not going to sit down if there are only 10 people out of 1000 employees that are going to do it. There has to be some indication that the majority of the people in a par-

ticular unit want to be represented by that particular unit or group.

Mr. Mackasey: In conclusion, Mr. Minister, do you feel that numbers are of importance when you are trying to rectify what you think is an injustice, or trying to introduce an improvement through a bill?

Mr. Nicholson: It is a question of whether a thing seems to be right or wrong.

Mr. McCleave: Well, I would say Mr. Chairman, that Mr. Mackasey has passed his bar examinations and can start a career as an attorney.

Mr. Mackasey: Thank you, Mr. Nicholson.

[Translation]

Mr. Clermont: Mr. Chairman, did I understand rightly when Mr. Lewis said that the Quebec Labour Federation had 350,000 subscribers? I have, before me, a news item which appeared in the newspaper, *Le Devoir*, of Montreal, of January 18, 1968, following a meeting in Rimouski, at which the guest speaker was Mr. Louis Laberge, President of the Quebec Labour Federation, who said:

The Federation's objective: 300,000 subscribers; presently, 200,000.

Mr. Lewis: Mr. Laberge will say so perhaps here before the Committee.

Mr. Clermont: Recently, I had the opportunity of meeting Mr. Laberge, and he spoke of 200,000 subscribers, not members, subscribers.

[English]

The Chairman: Mr. Clermont, I think it is in the interests of the procedure that we try to cross-examine the witnesses. I think that is going to bring us enough fireworks.

[Translation]

Mr. Clermont: But I thought, sir that it was important. Between 350,000, 300,000 and 200,000 there is a small margin.

The Chairman: Yes, indeed.

Mr. Lewis: We shall hear Mr. Laberge when he comes here.

[English]

The Chairman: That completes the list of questioners. Mr. Nicholson, I thank you very much and we will continue now with Mr. MacDougall and Mr. Gray.

Mr. McCleave: Could I raise a point of order about this? I think we set up the meeting today because of the Minister; we fully appreciate he is a busy minister and we do try to accommodate under such circumstances. However, Mr. MacDougall, as I understand it, is not leaving the city and think the spirit of the original agreement, and probably even the letter, too, was that we would hear the Minister today.

We have had an afternoon meeting and I rather object, when the House of Commons is in session and going through a variety of bills, to having to spend so much time in Committee that I might miss the chance to take part in a particular bill. In fairness, really, I would respectfully request that the Committee consider hearing Mr. MacDougall at another time.

The Chairman: I am at the disposal of the Committee. My understanding of the arrangements this afternoon—this is what I stated and I hope the transcript will bear me out—is that we would hear Mr. Nicholson and then go on to hear Mr. MacDougall. Now, I know Mr. Lewis did not quite understand it that way and probably you did not. But that was my understanding of the arrangements. I do not know whether we want to get into a discussion.

Mr. Lewis: Mr. Chairman, I agree that we sit this evening after the Minister said he was not going to be here next week and we wanted to accommodate him. It is now twenty minutes past nine, Mr. MacDougall will take longer than 35 minutes because he has a lot of information to give us. I suggest, without making it a long argument, that we adjourn now—

An hon. Member: On a point of order, Mr. Chairman—

Mr. Gray: Mr. Chairman, I think you will have to hear another point of view on this. Certainly if there is some misunderstanding of the intention I suppose we have to give those who do not have the same understanding as other the benefit of the doubt. But we are here now, and I see no reason why we could not make a beginning and keep going until 10 o'clock. After all those members who want to be in the House for a particular bill can be excused to go to the House and the others who are not as directly interested could follow it in *Hansard* the next day. I think it might be of interest to see whether or not we will be in a position to meet Monday afternoon.

Mr. McKinley: Mr. Chairman, I was under the impression that we came back here tonight to finish hearing the Minister and that is the only reason we came back.

Mr. Gray: Will the Committee be willing to meet Monday afternoon?

Mr. Lewis: I said before that if this was a matter of urgency we had from December 5 to December 21. I have to be in Winnipeg this weekend and I come back in the middle of the afternoon. I want to be present at these meetings; I am interested in this field and in this law.

We had a Steering Committee Meeting and we set up a program that we would start on the 15th. You then brought to our attention the fact that the Minister wanted to make a statement, or Mr. Mackasey did, and to start it earlier and we agreed. This afternoon, some of us who were not anxious to sit afternoons and evenings—and we had caucus this morning and other committees—agreed to do that to accommodate the Minister. I do not see the need for the rush.

• 2120

The Chairman: I would like to make a point clear, Mr. Lewis. Mr. Mackasey made a motion and included both the Minister and Mr. MacDougall, that is my understanding. That is the position as I understand it. Now, I am in the hands of the Committee if it wants to reverse that decision, but I do not think there is any question that was the original decision.

Mr. Mackasey: Mr. Chairman, that is right. I would like to try to participate in the discussion because I think I have that right.

On two occasions Mr. Lewis emphasized the fact that we could have set up the Committee as early as December 15. We did have a Christmas break which Mr. Lewis, like everybody else, enjoyed. The reason I brought to the attention of the Committee the desirability of having as many meetings as possible was to provide an opportunity for all trade union movements in this country, as well as all interested employers—some of whom are here this evening—and all those for and against the Bill, to be heard before the Committee. If we do not hold another meeting until February 15 or February 20, we could be accused—I am sure Mr. Lewis would not want to be accused—of delaying the passage of the Bill inside the Committee. We would not want to be guilty of that, any more than we would want to be guilty of rushing it

through the Committee. We are trying to strike a happy medium of providing ample time in the Committee for an exhaustive review of the Bill and still have time to report back to the House.

I would suggest, Mr. Chairman, in view of the fact that we also have to accommodate, as we should, the labour movement who will be making their annual presentation next Tuesday and Wednesday, which we all want to hear and which makes it impossible for us to meet on those days, that we take advantage of the permission that was granted for us to sit while the House is sitting and meet on Monday afternoon or Monday evening. If we agree to do this, then I am quite willing to withdraw the motion I made this afternoon and hear Mr. MacDougall on Monday.

Mr. McCleave: Could I raise the same point I raised earlier that Mr. MacDougall has an idea at least of the points that concern us. I do not know whether or not he has that statistical information on hand but I am quite agreeable to sitting on Monday evening...

Mr. Lewis: If the committee will meet on Monday evening I will go along with it.

Mr. McCleave: ...for the same reason as Mr. Lewis because I probably will not be back until Monday afternoon.

Mr. Mackasey: Mr. Chairman, can we not compromise and decide to meet Monday evening?

The Chairman: Since you are in a conciliatory mood, may I propose that the Steering Committee meet late Monday afternoon so that we may firm down some of these commitments and the Committee meet Monday evening at which time we will hear Mr. MacDougall as the first witness. Is that the consensus of the Committee?

Mr. Mackasey: The Committee as a whole will meet Monday evening?

The Chairman: The Steering Committee will meet in my office late Monday afternoon to accommodate the flight plans of Mr. Lewis and Mr. McCleave.

Mr. Lewis: I have a better idea, Mr. Chairman. To ensure that Mr. McCleave and I will be present at the Steering Committee meeting, why do you not take us to dinner on Monday?

Mr. Mackasey: Mr. Chairman, will we be meeting Monday evening regardless of the Steering Committee?

The Chairman: Yes, but I would like to have the Steering Committee meet on Monday, as well. Is that the consensus of this Committee?

Some hon. Members: Yes, Mr. Chairman.

The Chairman: Yes, Mr. Nicholson.

Mr. Nicholson: Mr. Chairman, before you adjourn, may I make some comments? My testimony is completed, but I would like to express my appreciation to the Committee for sitting this evening because otherwise it would have been necessary to postpone my departure until Saturday for the GATT Conference in Delhi. I will be away for a week, perhaps longer. I assured the Committee on the first day of the hearings that I would be following closely the proceedings and the work of this Committee and would attend the meetings as frequently as I could. I can assure the Committee that during my absence my Acting Minister will continue to do that and I hope by the time I get back from Delhi the Committee will have completed its deliberations and reported to the House.

I would like to add one other comment in order to complete the record. Reference was made to the fact that this Bill had first reading on December 5, 1967 and that the Committee was not organized until six weeks later. I hope you will keep in mind that we had a housing conference during December and the Minister of Labour was engaged for most of that period with other items that made it a little difficult to wear two hats. That is one reason, I might say, why I asked to be relieved of the second hat and the Prime Minister had the good sense to accept my suggestion. These were the circumstances which prevented me from participating in these discussions in December.

• 2125

Mr. McCleave: Mr. Chairman, I understand the Acting Minister will be Mr. MacEachen and he, too, seems to have something else on his mind lately, but we know the Parliamentary Secretary will be very zealous in his attendance and we will settle for him.

The Chairman: The meeting is adjourned.

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

MONDAY, FEBRUARY 12, 1968

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UNIVERSITY OF TORONTO

WITNESS:

Mr. J. L. MacDonnell, Director of the Employee Representation Branch,
Department of Labour, and Chief Executive Officer of the Canada
Labour Relations Board.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Allmand,	Mr. MacInnis (<i>Cape</i>	Mr. Munro,
Mr. Barnett,	<i>Breton South</i>),	Mr. Nielsen,
Mr. Clermont,	Mr. Mackasey,	Mr. Ormiston,
Mr. Duquet,	Mr. McCleave,	Mr. Patterson,
Mr. Gray,	Mr. McKinley,	Mr. Racine,
Mr. Guay,	Mr. McNulty,	Mr. Régimbal,
Mr. Hymmen,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Lewis,	<i>North and Victoria</i>)	Mr. Ricard—(24).

Michael A. Measures,
Clerk of the Committee.

¹ Replaced Mr. Knowles on February 9, 1968.

ORDER OF REFERENCE

FRIDAY, February 9, 1968.

Ordered,—That the name of Mr. Barnett be substituted for that of Mr. Knowles on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

MONDAY, February 12, 1968.

(5)

The Standing Committee on Labour and Employment met this day at 8:08 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Allmand, Barnett, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, Mackasey, McCleave, Muir (*Cape Breton North and Victoria*), Nielsen, Patterson, Régimbal, Reid, Ricard—(18).

Also present: The Honourable Jean Marchand and Messrs. Boulanger, Cantelon and Grégoire, M.P.'s.

In attendance: Mr. J. L. MacDougall, Director of the Employee Representation Branch, Department of Labour, and Chief Executive Officer of the Canada Labour Relations Board.

The Chairman presented the Second Report of the Subcommittee on Agenda and Procedure, as follows:

Your Subcommittee met this afternoon and recommends that its membership be increased from five to six members and that the Chairman be authorized to appoint the sixth member.

It was agreed that the report of the Subcommittee be adopted.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

Mr. MacDougall was questioned.

The following documents were distributed to the members present, in English and French:

- a) Industrial Relations and Disputes Investigation Act,
- b) Rules of Procedure of the Canada Labour Relations Board.

During further questioning of Mr. MacDougall, it was agreed that he would provide supplementary documentation at a later date.

The questioning having been completed for this day, the Chairman reported on the scheduling of other witnesses.

At 10:05 p.m., the Committee adjourned to Thursday, February 15, 1968, at 11:00 a.m.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Monday, February 12, 1968

The Chairman: Gentlemen, I see a quorum and I call the meeting to order.

Mr. Gray: I want my name on the list.

The Chairman: Fine. The first item of business is the second report of the Subcommittee on Agenda and Procedure. The report reads: (See Minutes of Proceedings) Is the recommendation of the Subcommittee agreed to?

Some hon. Members: Agreed.

The Chairman: Before we hear our witness I would like to remind you again to speak into the microphones so that we may have an accurate transcription.

Our witness tonight is Mr. J. L. MacDougall, Chief Executive Officer of the Canada Labour Relations Board. Welcome, Mr. MacDougall. Do you want to say anything first or should we start the questioning?

Mr. J. L. MacDougall (Director of Employee Representation Branch and Chief Executive Officer of the Canada Labour Relations Board): I do not have a brief, Mr. Chairman. You have had the composition of the Board and I am in your hands, really.

The Chairman: Well, if it is the wish of the Committee, we will get right into the questioning period.

Mr. Lewis: Does he not have something?

• 2010

The Chairman: No; he has no prepared statement. Would you like to start the questioning, Mr. Gray?

Mr. Gray: Mr. MacDougall, what is your exact title?

Mr. MacDougall: I am Director of the Employee Representation Branch of the Department of Labour and I am the Chief Executive Officer of the Canada Labour Relations Board.

Mr. Gray: What are your duties as Chief Executive Officer?

Mr. MacDougall: To lend, with the staff at my disposal, administrative support to the Board, to direct the investigations needed by the Board to prepare its documentation and to see that decisions reached by the Board are issued in the form of orders, also to supervise the taking of representation votes and other matters of a similar nature.

Mr. Gray: So you are familiar with the practices and procedures of the Board.

Mr. MacDougall: I am.

Mr. Gray: Obviously, one of the primary duties of the Board is to determine whether a union, applying on behalf of a group of employees, is entitled to be certified as their bargaining agent.

Mr. MacDougall: Yes.

Mr. Gray: And one of the things the Board has to determine is whether the unit of employees is appropriate for collective bargaining.

Mr. MacDougall: That is one of the most important functions of the Board.

Mr. Gray: First of all, in case all of us are not familiar with this, could you draw the attention of the Committee to the portions of the Industrial Relations and Disputes Investigations Act setting forth the Board's powers in determining what is a unit appropriate for collective bargaining?

Mr. McCleave: On a point of order, Mr. Chairman, I thought we were supposed to have copies of the Act as well as copies of the Regulations delivered to us.

The Chairman: Mr. McCleave we have copies of both the original Act and the Regulations for any member of the Committee who wants one. I will ask the messenger to deliver a copy to each member of the Committee.

• 2015

Mr. Gray: Mr. MacDougall, I was asking you if you could show the Committee the portions of the Industrial Relations and Disputes Investigation Act dealing in any way

with the authority of the Board in the area of determination of appropriate bargaining units.

Mr. MacDougall: First I would refer you to section 9, subsection (1) on page 6.

Mr. Gray: Could you read that for us. I do not think it is too long.

Mr. MacDougall:

9. (1) Where a trade union makes application for certification under this Act as bargaining agent of employees in a unit, the Board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining and the Board may, before certification, if it deems it appropriate to do so, include additional employees in, or exclude employees from, the unit, and shall take such steps as it deems appropriate to determine the wishes of the employees in the unit as to the selection of a bargaining agent to act on their behalf.

Now would you go back to section 2 of the Act, subsection (3), about the middle of page 3.

For the purposes of this Act, a "unit" means a group of employees and "appropriate for collective bargaining" with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer.

Would you refer also to section 7, subsection (1) the conditions for making an application for certification.

A trade union claiming to have as members in good standing a majority of employees of one or more employers in a unit that is appropriate for collective bargaining may, subject to the rules of the Board and in accordance with this section, make application to the Board to be certified as bargaining agent of the employees in the unit.

• 2020

I shall skip the other provisions of section 7. Section 8, relating to craft units and placing a limitation on the discretion of the Board for groups of that kind, reads:

Where a group of employees of an employer belong to a craft or group exer-

cising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to the Board, subject to the provisions of section 7, and is entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining.

Then, if you would turn finally to section 61, subsection (1), which deals with the powers of the Board, item (f) reads:

If in any proceeding before the Board a question arises under this Act as to whether (f) a group of employees is a unit appropriate for collective bargaining; the Board shall decide the question and its decision is final and conclusive for all the purposes of this Act.

Under the following subsection the Board may reconsider, vary or revoke, but basically I think that should answer the question.

Mr. Gray: Would section 9(3) be included?

Mr. MacDougall: Yes. This section is rather like section 8. It is within the discretion of the Board in certain circumstances. This section reads:

Where an application for certification under this Act is made by a trade union claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, which includes employees of two or more employers, the Board shall not certify the trade union as the bargaining agent of the employees in the unit unless

(a) all employers of the said employees consent thereto, and

(b) the Board is satisfied that the trade union might be certified by it under this section as the bargaining agent of the employees in the unit of each such employer if separate applications for such purpose were made by the trade union.

Mr. Gray: Is there anything in the rules of procedure of the Canada Labour Relations Board, copies of which have been distributed?

Mr. Lewis: Before you go on I would like to put on the record, if you will permit me, Mr. Chairman, the definition of "employee" under section 2(1)(i).

Mr. MacDougall: That is right, that goes to the composition—

Mr. Lewis: Of course, every bargaining unit is a unit of employees and you have to go back to see what an “employee” is.

Mr. MacDougall: Subsection (1)(i) reads as follows:

“employee” means a person employed to do skilled or unskilled manual, clerical or technical work, but does not include

(i) a manager or superintendent, or any other person who, in the opinion of the Board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations, or

(ii) a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of a province and employed in that capacity;

Mr. Gray: Perhaps you could assist us with respect to the office consolidation of the rules of procedure of the Canada Labour Relations Board which has been distributed. Is there anything in this set of rules which in any way pertains to the Board's activities in determining the appropriateness of bargaining units?

Mr. MacDougall: The provision relating to votes of employees takes place after the Board has determined the unit and directed the taking of a vote. This is also mentioned in section 9(1) of the statute. Is that what you had in mind?

• 2025

Mr. Gray: Yes, thank you. Mr. MacDougall, when you gave us the various revisions of the Industrial Relations and Disputes Investigation Act which dealt with the Board's authority to determine appropriateness of bargaining units you singled out section 8 as placing a limitation on the discretion of the Board in this regard. Do any of the other sections you have mentioned have similar limitations or analogous limitations in them?

Mr. MacDougall: I should think that section 9(3) places certain limitations on the Board's discretion in regard to the scope of bargaining units because in a multi-employer unit—if I may use that expression—the Board is not free to grant certification unless the employers give consent and, secondly, unless there is a majority in the union with respect to the employees of each employer.

Mr. Gray: Therefore, except for section 8 and section 9(3), none of the sections to which you have directed our attention place any limitation on the discretion of the Board in determining appropriateness of bargaining units?

Mr. MacDougall: None, having regard primarily to section 2(3), together with the others that have been mentioned relating to composition—section 2(1)(i), and so on. I think the Board has full discretion, subject to those cases we have mentioned.

Mr. Gray: I gather, then, that in dealing with cases over the years the Board has worked out various criteria, aside from the legislation, that apply in carrying out its duties to determine appropriateness of bargaining units?

Mr. MacDougall: Yes, it has.

Mr. Gray: Could you give some indication of what these might be? Perhaps I should turn my question around. I have come across a book called *Determination of the Appropriate Bargaining Unit by Labour Relations Boards in Canada* written by Mr. Edward E. Herman and published under the imprint of the Economics and Research Branch of the Canada Department of Labour in November, 1966. Are you familiar with that publication?

Mr. MacDougall: Yes, I know the publication.

Mr. Gray: At pages 12 and 13 Mr. Herman gives 10 principles in choosing criteria. Do you agree that these are generally the basic criteria labour relations boards, including the federal board in Canada, should follow? Could you read them out to us or add any comments of your own that you consider appropriate?

Mr. Lewis: Mr. Chairman, I feel uneasy about raising this matter. Mr. MacDougall is Chief Executive Officer of the Board and his duties are administrative. I have seen Mr. Herman's book but I am not sure whether he is the proper authority to give us the criteria for the Labour Relations Board. Perhaps we should have the Chairman of the Board do that. I do not object to Mr. MacDougall commenting on it, but are we not putting him in a bit of a spot by asking him to tell us what the Labour Relations Board—of which he is not a member but merely an administrative officer—has in mind when it makes decisions? There are many published decisions in CCH, in the *Dominion Labour Law Reports* and in

the *Labour Gazette*. Most of the important decisions appear either in whole or in part in the *Labour Gazette*. I question the propriety of an administrative officer of the Board laying down the principles for the Board.

• 2030

Mr. Gray: I think your point is well taken, Mr. Lewis. I was not asking him to lay down the principles, but whether he could tell us, on the basis of his observations and experience, a number of the criteria which it appears the Board regularly follows. If he or the Committee generally considers this to be inappropriate, then I would be happy to leave it for somebody else to answer.

The Chairman: Possibly we could proceed and make a decision later. Do you want to continue?

Mr. Gray: I do not want Mr. MacDougall to trespass into an area which he does not consider is part of his own general competence. I want to make that quite clear.

Mr. MacDougall: I would not want to stick to the book by Mr. Herman, although he interviewed a great many people in the Department and did a great deal of research for his book. However, if the Committee is interested, there are some criteria on an examination of the written reasons for judgment of the Board that stand out.

The Chairman: Yes, I would be interested in that. If that is agreeable to the Committee, we will proceed along those lines.

Mr. MacDougall: They are not my criteria; they are those of the Board, I assure you.

It considers in the determination of bargaining units the purposes and provisions of the legislation administered by the Board, particularly those which govern the establishment of appropriate units; second, the mutuality or community of interests of the employees or groups of employees in the proposed bargaining unit; third, the past bargaining history of the bargaining unit in question; fourth, the history, extent and type of employee organization involved in the unit determination.

Mr. Lewis: Pardon me, but what was the difference between the third and the fourth?

Mr. MacDougall: The history, extent and the type of employee organizations.

Mr. Lewis: The first is the history of bargaining?

Mr. MacDougall: The past bargaining history, and then the history, extent and type of employee organization involved in the unit to be determined; the history, extent and type of organization of employees in other plants of the same employer or other employers in the same industry; the skill, method of remuneration, work and working conditions of the employees involved in the unit determination; the desires of the employees as to the bargaining unit in which they are to be embraced, particularly after expression by means of a vote; the eligibility of the employees for membership in the trade union or labour organization involved. That is rather rare, but there was a case in point quite recently. The relationship between...

Mr. Lewis: Excuse me, does it help if I interrupt or does it hinder?

Mr. MacDougall: Not at all.

Mr. Lewis: When you say eligibility for membership, do you mean whether the union constitution admits them as members?

Mr. MacDougall: Exactly, sir.

An hon. Member: Or whether, in fact, they have become members.

Mr. MacDougall: No, that is another question. The case I have in mind is that of a postal union that made application just a few weeks ago for some employees of a mail contractor in Western Canada and examination of the postal union's constitution showed that it was limited strictly to civil servants, while the people it was seeking bargaining rights for were outside the civil service. The Board so ruled and rejected the application.

The Chairman: Could I interrupt for a moment? Mr. Nielsen, would you like to get to a microphone? I do not think you have one in front of you.

Mr. Marchand: Has this anything to do with employees as defined in the law, those who are eligible?

Mr. MacDougall: No, under the law employees who are engaged in manual, clerical or technical positions can be included, but the Board considered this. As a rule, Mr. Marchand, it does not go into the constitution of a trade union looking for these things, but this one was so rigid the Board came to the conclusion that this union had no members in good standing whatever in the unit for which it was making application. In order to make

that determination, it did take a look at its constitution.

• 2035

Mr. Lewis: There was an Ontario case dealing with an organization called the Christian Labour Association which similarly excluded certain people from membership and the Ontario board held, therefore, that if it could not have them as members it could not represent them.

Mr. Gray: Do you have additional points to give us in this area?

Mr. Nielsen: Could I ask one more question on this matter of eligibility? In hearing matters of this nature, does the Board not go into the question of the manner in which the union advances eligibility of a majority?

Mr. MacDougall: The manner in which it advances eligibility?

Mr. Nielsen: Advances the claim for eligibility.

Mr. MacDougall: The Board makes a quite strict investigation into the existence of signed applications for membership. It seeks to be shown duplicate receipts of dues having been paid by the employee on his own behalf. It goes behind that quite frequently to check into duplicate bank deposit slips and that type of thing. Therefore, the Board is definitely alert to finding out whether the claims advanced by the union to majority status in a particular unit are well founded.

Mr. Gray: Mr. MacDougall, do you have any additional points to give us?

Mr. MacDougall: Yes; in its criteria the Board also looks at the relationship between the unit or units proposed and the employer's organization and management or its operation, and how the proposed unit fits into the company's organization or its plant set-up, and so on. It looks at the existence of an association of separate employees exercising employer functions and having a history of collective bargaining on a multiple employer basis; also, the bargaining performance of an existing bargaining agent with respect to employees in the unit previously determined as appropriate.

Mr. Lewis: I am sorry to interrupt again, but what does that mean?

Mr. MacDougall: On one occasion when the Board fragmented an existing unit which it had previously certified and found to be appropriate, it received an application from another trade union and, upon examination, found that the originally certified trade union had, the first year bargained for, taken a particular job classification—these were airline dispatchers—into membership, set up wage rates and so on and then, for some reason or other, dropped them.

Over a period of years it had not represented them, they were not in the system-wide bargaining unit on the industrial basis which the Board had determined and the Board fragmented that certified unit by granting certification to the second union which came along and showed that it was prepared to bargain for them, had applied for them and did have them in membership.

Mr. Gray: Mr. MacDougall, let us just stop there for a moment. When we last met you heard Mr. Knowles ask a question which I think was directed to the Minister asking whether or not he knew of any cases in which the Board had granted a certificate that had the effect of fragmenting an existing system-wide bargaining unit, and you have just given us an example of that.

Mr. MacDougall: Yes.

Mr. Gray: Tell us the name of that case.

Mr. MacDougall: If I remember rightly, it involved the Canadian Air Lines Dispatchers' Association, which was the applicant. The employer was NORDAIR Limited and I do not believe there was any active intervention from the originally certified bargaining agent.

• 2040

Mr. Gray: Who was the original certified bargaining agent?

Mr. MacDougall: It was a syndicate affiliated with the CNTU.

Mr. Gray: And the original certificate covered the entire...

Mr. MacDougall: It was an industrial unit covering the NORDAIR system.

Mr. Gray: The entire system in NORDAIR?

Mr. MacDougall: Yes.

Mr. Gray: And do you know with what labour centre—if I am using the right words—the Canadian Airlines Dispatchers Association is affiliated?

Mr. MacDougall: My recollection is that it is affiliated with the CLC, the Canadian Labour Congress.

Mr. Gray: And in what year was this case decided? Was that about 1964?

Mr. MacDougall: I think it was later than that.

Mr. Gray: Later than that?

Mr. MacDougall: I think it was 1965 or 1966. I can give you that a little later.

Mr. Gray: Fine. Now, are there any other cases that spring to your mind at this point which had a similar result whereby the Board granted a certificate to a union which had the effect of fragmenting an existing system-wide unit?

Mr. MacDougall: Yes, I recall one. It was the Brotherhood of Railway, Airline and Steamship Clerks, which became certified for what you might call an omnibus bargaining unit on the CPR across its entire system for manual people, clerical people, quite a very large number of job classifications. A year or so later an application was received from the International Long Shoremen's and Warehousemen's Union, or a local of it at Vancouver, asking for certification on behalf of a group of employees of the CPR at Vancouver—I have forgotten the figures; fifty, sixty or seventy of them perhaps—who, on the evidence given to the Board, were engaged in what is known technically as stage 1 and stage 3 of long shoring work.

They were working in and around sheds, handling goods from dockside into warehouses through the sheds using forklift trucks and, occasionally, one or two or three of them using large cranes, and the Board conducted a hearing that in the long run directed that a vote be taken and, if I remember rightly, offered the certified bargaining agent, the brotherhood, the opportunity of being on the ballot, and they chose not to go along with that and in the final analysis the Board granted certification which had the effect of...

Mr. Lewis: Not to go along with that, not to go on the ballot?

Mr. MacDougall: They did not want to have a vote taken. They finally said "We do not wish to have this go to a vote". In effect, or in substance, I think they withdrew their intervention, the Board certified and thereby fragmented the system-wide bargaining units.

Mr. Gray: So in this case, there was a system-wide unit represented originally by the Brotherhood of Railway, Airline and Steamship Clerks and the Board granted an application for a certificate made by the International Long Shoremen's and Warehousemen's Union which had the effect of fragmenting the original system-wide unit.

Mr. MacDougall: Yes, that is right.

Mr. Nielsen: How would you distinguish between that situation, Mr. MacDougall, and the situation that occurred as a result of the conflict between the United Steel Workers and the Mine, Mill and Smelter Workers at Sudbury?

Mr. Gray: May I interrupt here?

Mr. Nielsen: I was asking Mr. MacDougall...

Mr. Gray: That is why I am interrupting, on a point of order. First of all, I think Mr. Lewis said in a sort of whisper that was a provincial matter, but that was not really my point of order. I return to the point raised by Mr. Lewis in which I actually agreed with him and that is I think we may be putting Mr. MacDougall into a rather invidious position if we attempt to get him to distinguish between various cases and decisions.

It is one thing to ask him to name the parties and basic circumstances of a case and tell the decision of the Board. It is another thing to ask him to make distinctions between various cases, which I think it would be more a matter of argument for members of the Committee and for any other witnesses in the form of members of the Board or council whom he possibly may want to call. That is the only point I am making. Actually it is in support of a point made by Mr. Lewis earlier in our meeting.

• 2045

The Chairman: Maybe it might expedite things if...

Mr. Gray: Well, not necessarily, but in this case...

The Chairman: Maybe it might expedite things...

Mr. Gray: I also want to help you by saying...

The Chairman: Just a moment, please. I think what we should do here is let Mr. Gray complete his questioning. When we were dis-

cussing criteria the interventions were useful, because they were interventions for clarification purposes. Mr. Gray, if you would like to conclude your questioning very rapidly we can get on to other people who might like to ask questions.

Mr. Gray: I think I have used the time of the Committee long enough at this stage. I shall be happy to turn the floor over to somebody else.

Mr. Lewis: To go back to the matter of the airline dispatchers, merely to get the facts straight and to make sure I understood them, I understood you to say that a syndicate member of the CSN or the CNTU had been certified for an overall unit.

Mr. MacDougall: Yes.

Mr. Lewis: And that for some reason it turned out that it had failed, in fact, to represent the airline dispatchers among others.

Mr. MacDougall: No, it had left out one group and that was the airline dispatchers.

Mr. Lewis: The airline dispatchers. I understood you to say they were not included in the collective agreement.

Mr. MacDougall: They had been in the first agreement...

Mr. Lewis: And they had dropped out.

Mr. MacDougall: They had dropped out. The evidence was that they and they only were not being bargained for, and had not been for a number of years, and the Board granted certification to the new applicant, the Canadian Air Line Dispatchers' Association for, I suppose, a regional group, because Nordair had dispatchers at various bases throughout the north country.

Mr. Lewis: You say you "suppose" it would be a regional group; I presume the certificate would tell us.

Mr. MacDougall: The certificate would read that the Canadian Airlines Dispatchers Association were certified for all employees of the company classified as airline dispatchers. I am drawing on my recollection. They have...

Mr. Lewis: Excuse me; you can if you like, but do not do it.

Mr. MacDougall: They have quite a few terminals where dispatchers were employed.

Mr. Lewis: So far as the language of the certificate is concerned, it covered the airline dispatchers of the employer.

Mr. MacDougall: That is right; yes.

Mr. Lewis: And they were a group that had not been bargained for?

Mr. MacDougall: They had once been in the certificate, and then had been dropped out from bargaining.

Mr. Lewis: I also understood you to say that the existing bargaining agent did not intervene; did not oppose the application.

Mr. MacDougall: That is correct.

Mr. Gray: Of course, the point is the Board felt it possible to grant a certificate fragmenting a system-wide unit.

Mr. Lewis: As a matter of fact, Mr. Gray, if it will help you I am going to ask Mr. MacDougall for other examples to show you that the law is not only bad, but unnecessary.

Mr. Gray: Are you talking about the existing Industrial Relations...

The Chairman: Mr. Gray, perhaps we can hear Mr. Lewis' questions.

Mr. Lewis: The other case that you gave was the Brotherhood of Railway, Airline and Steamship Clerks case. There again you had a situation where the existing bargaining agent first intervened and then withdrew its intervention?

Mr. MacDougall: In substance it withdrew its intervention; it did not wish to go on a ballot, and I think it actually withdrew. But the Board had heard evidence and was satisfied that convincing grounds existed for fragmenting the unit.

• 2050

Mr. Lewis: Yes, and it did so.

Mr. MacDougall: And it did so.

Mr. Lewis: I cannot recall cases, but it seems to me there have been more than these two cases where the Board fragmented existing bargaining units.

Mr. MacDougall: Mr. Lewis, I have been going into our records for the last month or so rather carefully, and they are the only two cases that are clear cut on this issue.

Mr. Gray: If I may assist Mr. Lewis and return the favour, it may be he is thinking of

other cases in which the Board, on an initial application, granted the certificate on a regional or local basis contrary to the wishes perhaps of the employer or perhaps of an intervening union; for example, The Bell Telephone case.

Mr. Lewis: All right, I was going to do that later, but I will do it now. The Board has, in the case of national systems, certified unions for bargaining units in a part of that system?

Mr. MacDougall: Yes, it has.

Mr. Lewis: Are there many?

Mr. MacDougall: Quite a number.

Mr. Lewis: Do you have the statistics for that?

Mr. MacDougall: There have been 59 applications for certification for what might be termed regional bargaining units, meaning units comprising employees employed at a number of plants or terminals or in more than one geographical area in which the employer carries on business or activities. Do you want the disposition of the 59 so-called regional applications? I have them broken down by source, by CLC, CNTU, and so on.

Mr. Lewis: Yes, I think we should have them.

Mr. MacDougall: Twenty nine were made by the CLC unions, of which 20 were granted, two rejected and seven withdrawn.

Mr. Gray: Would you read those a little more slowly, please, Mr. MacDougall?

Mr. MacDougall: Yes.

Mr. Gray: Twenty nine by CLC?

Mr. MacDougall: No; 29 made by the CLC, of which 20 were granted, two rejected and seven withdrawn. Ten such applications were made by affiliates of the CNTU, of which five were rejected, five withdrawn and none granted. Twenty were made by independent and other organizations, of which seven were granted, seven rejected and six withdrawn.

Mr. Lewis: Mr. MacDougall, if the Chairman does not think it too onerous a job, would it be possible to get a list of the names of the 59 cases, the disposition in each case, and which of the Board members were present when the decisions were made?

Mr. MacDougall: I might have here. . .

Mr. Lewis: I do not mean now, Mr. Chairman.

Mr. MacDougall: . . . a list of the 59 cases. I have done no research on the members of the Board present. I had not thought that it might be helpful. If you can draw any conclusions from members present I would be glad to supply a list and give. . .

Mr. Lewis: Mr. Chairman, unless you object, I certainly think it might be helpful to have such a list, showing the members present and any dissent that may have been recorded; and, in cases where dissent was recorded, who recorded it.

Mr. MacDougall: That will not necessarily show the voting; it may show whether any particular member perhaps felt strongly enough to register dissent.

This question was raised at a previous meeting of the Committee, and it was argued that dissent would show the voting. When a Board member—or members—asks to be recorded as dissenting or abstaining, it does not mean that reflects the voting on a particular decision of the Board. The vote may be five to three and one man may say, "I dissent and I wish to be recorded as so doing". We do not keep a record of the voting.

• 2055

Mr. Lewis: I have understood that over the years, Mr. MacDougall. The conclusion to be drawn from that perhaps would be that anybody who did not want to be recorded as dissenting may decide to acquiesce and finally vote for it, whatever he may have said beforehand.

Mr. MacDougall: On no, that does not apply.

Mr. Lewis: That would be my conclusion, but let us not argue about it.

Mr. Gray: On a point of order, perhaps Mr. MacDougall can tell us, based on his knowledge and experience and not mentioning any names, what the actual practice is in voting. We should have it on the record. Anybody can draw conclusions but let us hear what actually happens.

The Chairman: Mr. Lewis is doing the questioning and we will get an explanation.

Mr. Lewis: If Mr. MacDougall feels free to do so, let him go ahead. I was asking for that which is public knowledge. These votes take

place in executive session. If he feels free to tell us, by all means go ahead. I have no objection.

Mr. Gray: I am not asking for names.

Mr. MacDougall: I will put it this way. When the number of employer representatives who are present at any meeting of the Board exceeds the number of employee representatives present at that meeting, or vice versa, and when there is an issue that involves opposing viewpoints by all employer representatives and all employee representatives, the Board then follows the practice of giving equal weight to the votes cast by each side as a group. The result, in the event of a division of opinion between the representatives of the employers and the employees, is that the presiding officer casts his vote, which becomes the deciding factor. However, here again no record is kept of such situations.

Mr. Lewis: Are you suggesting that the Board considers itself competent to make a decision without equal representation?

Mr. MacDougall: The Board is able to determine its own rules of procedure; it has done so and this is a constant practice.

Mr. Lewis: It has done this in order to equalize the representation?

Mr. MacDougall: So when the Board is unbalanced do not misunderstand me, I do not mean that the members are unbalanced.

Mr. Lewis: Every time it has rejected a case of mine I thought it was unbalanced!

Mr. MacDougall: The Board thinks this is a fair way of seeing, if four employer members are present and two employee members of the Board are unable to be present, that the results of the voting should not be in one particular direction if the issues might split the Board on its representative basis between employer and employee.

Mr. Lewis: Mr. MacDougall, I am not asking you to interpret the Act, but do I gather from your statement that the Canada Labour Relations Board would feel that under this legislation it was within its competence and jurisdiction to make a decision with an unbalanced Board?

Mr. MacDougall: Oh yes, indeed.

Mr. Lewis: And each one of them has a separate vote? You are saying that if there were four employer members and two

employee members, you only count the two employer votes.

Mr. MacDougall: You might for simplicity say that the four employers have one vote and the two employees—for the purposes of the particular subject under discussion—also have one vote, and the chairman casts the deciding ballot.

Mr. Nielsen: In other words, you give equal weight to both sides?

Mr. MacDougall: Equal weight.

Mr. Nielsen: You assume there are an equal number and you place the onus of making the decision on the chairman?

Mr. MacDougall: Yes.

Mr. Lewis: But does that not flow from the fact the Act provides for a balanced board between employer and employee? I have never known a Labour Relations Board—and I have appeared before more than one—which would consider itself to have jurisdiction to make a decision without a balance of votes, whichever way you arrive at that balance.

Mr. MacDougall: The Board has its own method of arriving at a balance.

● 2100

Mr. Lewis: At arriving at a balance of votes, exactly.

Mr. MacDougall: But the Board members on either side feel entirely free to do so and frequently cross over and vote with the opposing side. This is that kind of Board. They vote according to their assessment of the facts and their consciences, and this is it.

Mr. Lewis: Do not let Mr. Marchand hear you. He will say that is not possible.

Mr. Marchand: Of course it is possible; it happens all the time. Legally, there is a quorum, and when there is a quorum, they can sit legally. This is what I understand.

The Chairman: Let us continue with the questioning.

Mr. Lewis: As a matter of interest, do members who do not attend these hearings of the Board attend the Board's executive sessions to arrive at a decision?

Mr. MacDougall: The practice is that if they have not heard the evidence they do not participate in arriving at a decision.

Mr. Lewis: Thank God for that.

You are going to supply us with a list of the names of the cases showing those of the Board members present and any dissent that was registered. You mentioned ten CNTU cases. When were they filed? Was it in the last year or two?

Mr. MacDougall: Over quite a number of years; two of the five withdrawals were in the earlier years of the Board, certainly well before 1964 and 1965, when the present confrontation began to develop. My recollection is that they found they had no *prima facie* majority, and rather than have a dismissal they asked permission to withdraw the application.

Mr. Lewis: Excuse me for interrupting you, but in those two cases out of the ten had the decision on the appropriate bargaining unit already been made?

Mr. MacDougall: No, sir; of the ten applications five were rejected and five were withdrawn. Two of the five withdrawals took place without, perhaps, an announced reason, but it is our practice that the investigating officer will inform an applicant he does not have the *prima facie* majority that he claimed to have on the basis of his preliminary investigation. In such circumstances they exercise the privilege of requesting withdrawals simply in order to avoid a six months' impediment, or bar, to the filing of a second application.

Mr. Lewis: You mean that if the application is formally rejected it cannot be filed again for another six months?

Mr. MacDougall: They cannot file for six months for the same, or substantially the same, bargaining unit.

Mr. Lewis: But if they withdraw they do not have that time limit.

Mr. MacDougall: Yes; that is so.

Mr. Lewis: Therefore, two of the five withdrawals were because they found that they did not have a majority?

Mr. MacDougall: That is my recollection. I have looked at it recently. I believe that is what happened. I could find no reason other than that in the files.

Mr. Lewis: In the case of the other eight, with what industry did they deal, that is, the

five that were rejected and the other three that were withdrawn?

Mr. MacDougall: I believe they were basically in the broadcasting and the railway industry. A number of the withdrawals took place immediately after the decision of the Board in the Angus Shops case.

Mr. Lewis: Will you give us that information in table form, Mr. MacDougall?

Mr. MacDougall: Yes, I will be very happy to give you this either in table form or in some condensed form.

Mr. Lewis: Would it be feasible to give the decision of the Board in each case, but not the reasons for judgment?

Mr. MacDougall: The reasons for judgment were not issued in every case...

Mr. Lewis: I know that.

Mr. MacDougall: ...I do not suppose, Mr. Lewis.

Mr. Lewis: I left them out because I knew they were not issued in every case, but I would like the decision or the order of the Board in each case.

Mr. MacDougall: I do not know whether or not you are interested, but the Board did distinguish in its reasons for judgment in an entirely different case—La Banque Canadienne Nationale case—between a number of applications made by the CNTU and the type of applications made by and granted regionally for the affiliates of the CLC. I have that information here if you wish it in the record.

● 2105

Mr. Lewis: What year was that?

Mr. MacDougall: This judgment is dated April 12, 1967.

An hon. Member: What is the name of that case, sir?

Mr. MacDougall: It is a case involving *Le Syndicat National des Employés de la Banque Canadienne Nationale*, CSN, covering the regional unit of the employees of *La Banque Canadienne Nationale* employed in Montreal and Quebec City. I have with me only an excerpt from the reasons for judgment, but it is the one case I was able to find where the Board tried to distinguish between the regional applications that were coming to it from CLC and its affiliates on the one hand and those that were coming to it from CNTU.

It inserted this in the judgment involving the employees of *La Banque Canadienne Nationale* for the reason that counsel for the CNTU cited quite a number of precedents which he felt should be taken into consideration by the Board, and the Board felt it could make a differentiation between the two types of applications that were coming forward to it from these two sources.

Mr. Lewis: I suppose you know that this case was published in the *Labour Gazette*?

Mr. MacDougall: Yes.

Mr. Nielsen: Rather than ask members to look it up in the *Labour Gazette* or to have it published in the record, I wonder if the decision could be reproduced and copies distributed to members of the Committee?

Mr. MacDougall: Yes, they certainly can.

The Chairman: Is that the pleasure of the Committee?

Some hon. Members: Agreed.

[Translation]

Mr. Grégoire: A supplementary question. Was the application made by the *Banque Canadienne Nationale* employees through the CNTU rejected? Did I understand you correctly?

[English]

Mr. MacDougall: Yes, the application was not rejected because it was a regional application by any means. It was rejected on other grounds entirely. The application basically involved, if I recall correctly, employees in what was described as the IBM department of the head offices of the bank in Montreal and at a number of branches, including Quebec City and other branches in greater Montreal. The employer opposed the application on the grounds that these people who were basically engaged in clearing house and routine clerical operations formed only a part of the employer's operations in the clearing house functions of the bank, whether at head office or at the branch offices, and that a great many other tellers were involved in clearing operations. There were people handling not only IBM machines, but Burroughs adding machines and all this sort of equipment, and they were also engaged in the clearing processes. The Board found that the group for which application was made was not appropriate for collective bargaining when separat-

ed from the other people who were performing similar work, either with different machines or manually, in the clearing process. The rejection in the case of *La Banque Canadienne Nationale* employees was not based on the issue of the regional scope for which application had been made. It was for an entirely different reason.

Mr. Lewis: If I may put it in fewer words, the applicant applied for a portion of the employees in the offices. The Board held that that was inappropriate and that generally speaking an appropriate unit would take in all the employees in those offices.

Mr. MacDougall: Yes, part of the offices and part of the employees within particular offices.

Mr. Lewis: Mr. Chairman, if I am taking too long will you stop me?

The Chairman: Perhaps you could wind it up with this question, if you do not mind.

Mr. Lewis: I had some other questions, but I can wait for the second round.

I would like to make this point clear to Committee members. In a case where there is a dispute as to the appropriateness of a bargaining unit, does the Board not follow certain procedures to get information? In a case such as *La Banque Canadienne Nationale*, unless you did differently, would you not be sending out...

Mr. MacDougall: We do not send examiners out.

Mr. Lewis: ... questionnaires to describe the content of the work, and so on?

Mr. MacDougall: No, but for contested classifications we have questionnaires for people who are alleged to be or are not to be supervisory, that is, performing management functions. We have other tests for people who are said to be confidential in regard to labour relations and some others for security staff, and that type of thing. We rely largely on an adequate description in the report of the investigating officer, which is read into the record where it is appropriate. The Board then, at a hearing brings out the evidence and has the parties produce feasible evidence.

Mr. Lewis: Related to this, Mr. Chairman, when a union makes application for certification, it has to describe the bargaining unit which it claims to be appropriate. Is that not correct?

Mr. MacDougall: That is so. We hope that they describe it and describe it well.

Mr. Lewis: Your application form has a special section for the purpose of the description or the definition of the bargaining unit that the applicant claims to be appropriate. If the employer or some other union questions the definition and claims that some other unit is appropriate, and that this one is not, you then make the investigations you have indicated.

Mr. MacDougall: We do.

Mr. Marchand: I just want to ask a question for clarification, Mr. Allmand, if you will allow me. You told us a few minutes ago that when the Board is unbalanced the members agree among themselves that the balance should be re-established. For example, if there are four employers and three representatives of employees, one of the employers would not vote.

Mr. MacDougall: No, they would all vote but they would have equal weight.

Mr. Marchand: Yes, they would have equal weight.

Mr. MacDougall: Unless they break ranks and an employer votes with the trade union, then this would follow.

Mr. Marchand: The last time the application by the CNTU group in Montreal was rejected by the Board I understand that Mr. Picard, who did not attend the hearing, was not allowed to vote. I do not know if he was present, but even if he had been he would not have been allowed to vote. In that circumstance was this ruling applied?

Mr. MacDougall: I do not remember if there was that kind of a split on the Board, and I do not feel free to indicate how the Board members voted. The fact is that Mr. Picard was not there.

Mr. Marchand: No, but you do not remember?

Mr. MacDougall: Therefore, because he did not hear the evidence, he would not ask to participate.

Mr. Marchand: No, but I want to know whether the ruling you outlined a few minutes ago applied in that case? You do not remember?

Mr. MacDougall: Offhand I would say it did not apply; that it was not necessary for the Board to achieve that balance.

Mr. Allmand: Following on Mr. Marchand's question it may be that I misunderstood the use of Mr. Marchand's term; Picard was not allowed to vote. Was the circumstance simply that he was not there or did he subsequently, not having been there hearing the evidence, ask to vote and was refused, or did he simply not vote?

• 2115

Mr. MacDougall: He did not hear the evidence, he did not ask to vote and if he was there at the time the decision was made I am sure he would not have felt competent to vote, but the question stripped down means did the Chairman cast the deciding ballot, and this is not so.

Mr. Nielsen: I think it goes deeper than that. Did Mr. Picard, in fact, ask to vote and was he refused?

Mr. MacDougall: No, Mr. Picard never asked to vote. I do not believe he was there.

An hon. Member: Mr. Chairman...

The Chairman: Just a moment. We have established a principle that we will allow questions of clarification so long as they are only for clarification. Mr. Nielson adhered to this. Now, Mr. Grégoire, is this a point for clarification or a question?

Mr. Gray: It should be up to the person who has the floor to say whether he wants to yield.

The Chairman: No; I have established a tradition in this Committee—a short-lived tradition—that points for clarification are fair. When we are following a line of cross examination I think they are fair. There is no reason why Mr. Marchand should have the right to clarification and it be denied the other side. Mr. Grégoire?

[Translation]

Mr. Grégoire: It is less than a point of clarification. I would just like to ask if we can have the complete file of the CNTU case, relating to the Banque Canadienne Nationale. This does not seem clear to me.

[English]

Mr. MacDougall: The complete Board file, Mr. Grégoire?

Mr. Grégoire: Yes.

Mr. MacDougall: No; I would not be prepared to produce that because it shows that employee A and employee B are members of a union and others are not; employees C and D might not be. It would open the way to possible discrimination against employees and even when our cases get into the courts...

The Chairman: We can have the judgment, I think.

Mr. Lewis: You can have more than that, with great respect—to help Mr. Grégoire. You can have the application, you can have the reply of the employer, you can have any intervention that may have been filed, you can have the judgment of the Board.

Mr. MacDougall: Quite so.

Mr. Lewis: That will give the entire story.

The Chairman: Is it the feeling of the Committee that we want this?

[Translation]

Mr. Grégoire: There is one more thing. I would like to know how many employees were affected by the application made by CNTU and how many employees were not included in this application? What was the majority group; was the application of the majority group refused because it was not adapted to the minority group, or was the application refused because it represented a minority group in order to adapt it to a majority group?

[English]

The Chairman: If I might intervene here, I really think this is not a point for clarification. I have you down for questioning; we will come to you. Mr. Regimbal, do you have a question for clarification?

Mr. Regimbal: Yes.

The Chairman: On the point that Mr. Marchand raised?

Mr. Regimbal: No; on the statistics that were given by Mr. MacDougall a minute ago as part of an explanation. Is it possible that in those numbers there are repeaters? For instance, that two that had withdrawn withdrew twice which would make four, or that had withdrawn once and came back and were rejected or accepted. Is there any possibility of this?

Mr. MacDougall: This is so in a good many of our statistics. Withdrawals are replaced by

applications withdrawn or replaced by new applications which may succeed or be rejected. There is that sort of duplication. It may be on occasion that the same case is rejected twice. Very close to that would be one of the CBC cases where the same application for substantially the same group of employees was rejected twice.

Mr. Regimbal: Will that show up in the information you will give us?

Mr. MacDougall: We can try, Mr. Regimbal.

The Chairman: Mr. Allmand?

• 2120

Mr. Allmand: Mr. MacDougall, in recent weeks I have received some letters and cards from unions suggesting that Bill C-186 is dangerous because it provides for the fragmentation of national bargaining units. Now, from the answers you gave to Mr. Gray and Mr. Lewis earlier it would seem that the Board, under the present Act, already has granted certification for fragmented units in the past.

Mr. MacDougall: Yes, it has.

Mr. Allmand: And this was in accordance with the present statute?

Mr. MacDougall: That is so.

Mr. Allmand: Therefore, the criteria you listed so well at the beginning of the hearing this evening provide at present for fragmented, or less than system-wide, units.

Mr. MacDougall: Both for fragmented units and for regional units applied for *de novo* and dealt with on that basis.

Mr. Allmand: In reply to Mr. Lewis you said there had been 59 applications for regional units—I am not too sure whether Mr. Lewis asked for this additional information on those statistics—but I wonder if you have information that would tell us how many of these 59 were contested on the appropriateness of the bargaining unit. I ask that because you say that some of these were rejected or withdrawn, not on the basis that they were not appropriate as bargaining units, but on other grounds. So, I am wondering how many of the 59 were contested on the ground of whether or not the bargaining unit was appropriate.

Mr. MacDougall: I have not examined those particular 59, but I have examined the overall figures of the Board to ascertain what

happened with the Board's disposition of cases where there was a direct conflict between CNTU affiliates on the one hand and CLC affiliates on the other. I have an overall figure but it does not relate to the 59. It is compiled from wherever we found one or the other as an applicant and the opposing side as an intervener.

Mr. Allmand: I am interested only in those that were contested on the appropriateness of the bargaining unit, not on other grounds.

Mr. MacDougall: No. These are 61 what I call direct conflict cases, but they are not necessarily cases in which it was a regional unit or anything of the sort. A case in point would be the CNTU applying for Ogilvie Flour Mills Company, Limited, a single plant in Montreal, and being opposed by the CLC affiliate, The Brotherhood Railway, Airline and Steamship Clerks, or the same with Robin Hood Flour Mills Limited. We have gone through and looked at the...

Mr. Allmand: Well, of course, I am only interested in the conflict where it is a conflict on the appropriateness of the bargaining unit. I am not...

Mr. MacDougall: Well, essentially these were on the appropriateness of the bargaining unit, but not on the point of its being regional. These take in single plant units, regional units, and so on; they take in the whole gamut of our applications for certification.

Mr. Allmand: Well, would you have this kind of information: On the applications by the CNTU to fragment a national bargaining unit, do you know how many were rejected and how many were accepted?

• 2125

Mr. MacDougall: I think that shows up in the statistics I gave of 10 applications—no, perhaps not. They may have sought to carve out a single plant, not a regional unit out of a system-wide unit. Whether one could call the Angus Shops a regional unit or just one plant unit is, perhaps, debatable. There the CNTU applied for all the shop craft employees plus the storekeepers in the stores department. The Angus Shops mechanical tradesmen came under the chief of motive power of the railway. The stores department employees were a section of a country-wide stores department. They were sent from the Angus Shops and serve, basically, about 64 or 70 stores depots

in the Atlantic region alone. They might have to get directly from the Montreal Shops large parts that are difficult to obtain from other base plants, such as the Ogden Shops and the Weston Shops at Winnipeg.

Mr. Allmand: You said there were ten applications by the CNTU for regional units of which five were rejected. Do you know if these five were rejected on the grounds of appropriateness of the bargaining unit or on other grounds?

Mr. MacDougall: These were not necessarily rejected by the Board because of appropriateness. In a nutshell, the Board's basic position is that—whether it be a system unit or less than a system unit—ordinarily it is not conducive to stable labour relations or orderly collective bargaining to subdivide a well-established unit of employees into several units consisting of segments of employees of the same craft and in any particular case where it is sought to do so, convincing grounds for so doing should be established. That has been a recurring theme in various reasons for judgment issued by the Board.

Mr. Allmand: They have done it, though, in cases such as the Nordair case.

Mr. MacDougall: They felt that convincing grounds for fragmenting had been well-proven and brought out in evidence before the Board.

Mr. Allmand: Have you read Bill No. C-186, Mr. MacDougall?

Mr. MacDougall: Yes.

Mr. Allmand: Do you think that clause 1, which adds subclauses (4a) and (4b) to Section 9 gives any more power to the Canada Labour Relations Board or imposes any burden on them that they already do not have?

Mr. Lewis: How can Mr. MacDougall tell us that?

Mr. MacDougall: In my humble opinion the answer is No. The Board may consider whether any bargaining unit is appropriate. It may certify an employer unit, a craft unit or any other unit. I do not see that its discretion is greatly diminished or enlarged by the addition of these subclauses. There still will have to be some set of criteria for determining bargaining units, and not simply on the wishes of employees. It must go beyond that

to the welfare of the enterprise, and many of them will have gone through the criteria earlier.

Mr. Allmand: Thank you, Mr. Chairman.

[Translation]

Mr. Grégoire: Mr. Chairman, I would like to know why the employees of the Banque Canadienne Nationale could not choose the CNTU as their union.

To what union were they allowed to belong, then?

[English]

Mr. MacDougall: There has been no bargaining agent certified for employees of the Banque Canadienne Nationale. Any union, including the CNTU, that comes to the Board with a majority in a unit which is deemed appropriate by the Board will certainly become certified if they meet all the other requirements of the Act. This is not a matter of freedom of association, or anything of that sort. They simply were choosing people who worked on a certain type of machine and who did a very limited operation. The Board found they were shaping a bargaining unit in which they had a majority, but they had not come forward with a unit that was appropriate.

• 2130

[Translation]

Mr. Grégoire: Is there anyone else who made a request to represent those employees, that category of employees of the Banque Canadienne Nationale?

[English]

Mr. MacDougall: No, no other union has. Another union came forward for a different bank. This union has been certified, but they asked for a coherent bargaining unit across the system of the bank. It is the only banking operation that has been certified, the City District Savings Bank of Montreal, which is commonly known as La Banque d'Épargne du District de Montréal.

Mr. Duquet: Mr. MacDougall, could I ask a question on this? If I clearly understood your point, you mean that those people who asked for representation and certification attempted to be classed as IBM operators, but it was found that many of them were not, in fact, operators of IBM. The group included all kinds of workers, those doing clearing house

work, those doing all kinds of general office work, and things like that. Am I right?

Mr. MacDougall: That is close, but it is not exactly the situation. These were operators thoroughly skilled in their own field, but there were other positions included such as people working alongside them doing clearing house work either at head office or in the branches and people operating other types of machines. The Board thought it was too limited a group to be a viable bargaining unit, considering the community of interest of the employees of the bank. There were so many other clerical people who should have been included that the Board thought they should have gone out and tried to organize them as well and then come forward with a more comprehensive unit that would have taken in people who had such a community of interest.

Mr. Duquet: I understand perfectly.

[Translation]

Mr. Grégoire: This means that the employees who made the request did not provide sufficient representation for all the employees of the Banque Canadienne Nationale.

[English]

Mr. MacDougall: They did not apply to nearly all the employees. They were trying to take a small group.

[Translation]

Mr. Grégoire: Did anybody apply for all the employees of the Banque Canadienne Nationale?

[English]

Mr. MacDougall: No, no. This was not a case...

[Translation]

Mr. Grégoire: Then the field is open. The CNTU could again ask to represent all the employees of the Banque Canadienne Nationale.

[English]

Mr. MacDougall: Quite so.

Mr. Reid: Yes, Mr. Chairman. Mr. MacDougall, you told Mr. Allmand that clause 1 of the Bill does not change the present powers of the Board.

Mr. MacDougall: This is my very humble opinion. I am not trained in the law, Mr. Reid, but this is my view.

Mr. Reid: That confirms what Mr. Nicholson told me the last time we met. Clause 1 does not add or diminish any of the powers of the Board. All this does really is to restate in different language the powers of the Bill as outlined, I think, in section 61 of the original Act.

Mr. MacDougall: Yes, I think so.

• 2135

Mr. Reid: Therefore, given the criteria of the Board as you outlined it before, it means the Board already has within its powers the right to fragment or to break up national bargaining units, should it decide to do so?

Mr. MacDougall: It does, and it has exercised what it considers its right to fragment, given convincing reasons for so doing.

Mr. Reid: In other words, the Board considers there is nothing particularly sacrosanct about the way the unions are established across Canada. They can be changed if a change is necessary?

Mr. MacDougall: The unions or the bargaining units?

Mr. Reid: The bargaining units.

Mr. MacDougall: "Sacrosanct" is a very strong word.

Mr. Reid: This is a very strong question.

Mr. MacDougall: The Board has given certain criteria. It is a combination of a lot of those criteria which count, they balance out. The Board gives weight to a particular set of circumstances in one economic situation or in a variety of situations.

Mr. Reid: In other words, the Board as presently constituted, and with its present powers, can be sufficiently flexible to break up national bargaining units...

Mr. MacDougall: ... all by itself, yes.

Mr. Reid: ... if it decides, in its judgment, that this is necessary for the benefit of the employer or the employee?

Mr. MacDougall: Yes.

Mr. Reid: That really means that clause 1 does not add anything; and according to some of the material I have received from the people of my riding, this would lead to the break-up of national bargaining units?

Mr. MacDougall: I think not.

Mr. Reid: Yes. That power is already there. Having said all that could we look at clause 3 of the Bill, which...

Mr. Lewis: You are satisfied.

Mr. Reid: If the power is already there, then it would seem to me that you are neither adding to, nor diminishing, anything; and that the really important clause would be the appeal clause...

The Chairman: There is no doubt that...

Mr. Reid: ... which is another matter entirely.

The Chairman: There is no doubt that a dialogue between Mr. Lewis and Mr. Reid would be fascinating, but I would prefer, Mr. Reid, that you direct your questions through the Chair.

Mr. Reid: Yes, Mr. Chairman. If I may I will revert to the panel arrangements. What constitutes a quorum of the Board at the present time?

Mr. MacDougall: Three members, providing that those include one employer-representative and one employee-representative.

Mr. Reid: And the panel system as outlined in the amendments would provide for a similar quorum?

Mr. MacDougall: Yes.

Mr. Reid: In the evidence you gave, either to Mr. Gray or to Mr. Lewis, you said that the votes of both sides were balanced; that if there were more employers than employees each side's votes were given the same weight?

Mr. MacDougall: I said that that is what the Board does in cases where the two groups do not cross lines but vote one with the other. If there is a split between employers and employees, and the Board is unbalanced in numerical terms, weight is given to the employers voting, and they all vote; and equal weight is given to the employee-representatives voting, and they all vote. But if the two sides deadlock then it is up to the chairman.

Mr. Reid: In other words, would it be fair to say that if they vote according to their interests the votes are equalized, but if they vote in a statesmanlike way and cross over the votes are taken as cast?

Mr. MacDougall: In my experience, they vote according to their consciences and their oath of office at all times.

An Hon. Member: Do they pair most of the time.

Mr. MacDougall: That is a very. . .

Mr. Reid: It is very, very tricky ground?

Mr. MacDougall: That is "touchy" ground. I would rather not go too deeply into that.

Mr. Reid: Where does the Board hold its meetings?

Mr. MacDougall: At the present time its hearings are held in Ottawa.

Mr. Reid: Has it ever travelled? In other words, has it gone to places where the cases arise?

Mr. MacDougall: No.

Mr. Reid: All cases, therefore, must come to Ottawa?

Mr. MacDougall: That is so.

Mr. Reid: Has there ever been a case in the Board's history of its having gone to hear a case in Montreal, or in Toronto or out to Vancouver or to the maritimes?

Mr. MacDougall: No.

Mr. Reid: Everybody comes to Ottawa?

Mr. MacDougall: That is so.

An hon. Member: At whose expense?

Mr. Reid: That is an interesting question. Who pays the expenses for these applications? Does the government undertake any of the expenses of the unions who, say, have to come from Vancouver to Ottawa to present a case, or are these borne by the applicants?

Mr. MacDougall: They manage by themselves.

Mr. Reid: I see. Is there any honorarium paid to the members of the Board, or is this purely voluntary?

Mr. MacDougall: They are paid a *per diem* allowance.

Mr. Reid: And this is a voluntary board? It is not a full time but a part time Board.

Mr. MacDougall: They meet on an *ad hoc* basis on from two or three days up to six days a month.

Mr. Reid: About six to eight days a month?

Mr. MacDougall: Up to six days a month; they may meet on the first three days and the last three days. There are usually three or four weeks between their meetings.

● 2140

Mr. Lewis: Mr. Reid, this arrangement is covered by section 58(7) of the Act.

Mr. Reid: In the hearing of these applications the quorum is three, providing that one comes from the employer and one from the employee?

Mr. MacDougall: Yes.

Mr. Reid: And no matter how serious the case, it is not necessary to have a full Board on any application?

Mr. MacDougall: That is so.

Mr. Reid: And a contested application between, say, the CNTU and a CLC union could conceivably be heard before the minimum quorum of three?

Mr. MacDougall: Conceivably, yes; but the Board is very reluctant indeed to hear important cases without a good attendance. To that end we use the long distance telephone to try to persuade Board members in advance to drop other important engagements to come to our meetings.

Mr. Reid: How successful are you in these attempts to provide full attendance?

Mr. MacDougall: We have varying success; but basically they are a conscientious group of men and they come when they can.

Mr. Reid: What would be the average turnout of the Board for an ordinary uncontested application to determine, say, the appropriateness of a bargaining unit?

Mr. MacDougall: I hesitate to hazard a guess on what it would be...

Mr. Reid: I will not insist that you answer that question. It is rather an unfair one.

Clause 4 provides for amendments to section 60 which gives the Board the power to make regulations. I understand there is a clause already in the Act. What are the reasons for its being amended so extensively?

Mr. MacDougall: I was not consulted on that and I am afraid I cannot give you an informative answer.

The Chairman: Mr. Reid, that is a matter of policy. Perhaps the Minister could answer that one.

Mr. Reid: That is fine, Mr. Chairman. Thank you.

[Translation]

The Chairman: Mr. Guay.

Mr. Guay: First of all I would like to ask a question which Mr. Reid asked earlier. Among the certification criteria you enumerated earlier, is there one criterion which takes precedence over all the others?

[English]

Mr. MacDougall: Oh, no. It is a matter of giving balance and weight, in particular circumstances, to any combination of the 10, 12 or 14 criteria which may crop up. You do not get them all in any one case. They have differing weight in various cases, and the Board tries to use a flexible approach in order to accommodate the varied labour relations situations that arise, which are very, very manifold indeed.

[Translation]

Mr. Guay: Mr. Chairman, I have a short supplementary question. Can the wishes of the majority of employees have an influence on the request for certification? I mean the wishes of union employees?

[English]

Mr. MacDougall: If I understand it correctly, the question is: Does the majority itself provide a criterion? It does, in relation to others. It is one of a number of criteria.

• 2145

Any other approach could lead to a rather silly situation. That is to say, if a union with, say, 100 members, all operating Burroughs adding machines, came forward and said: "These people should have freedom to determine their own unit," and, besides that, there were people using other types of adding machines in the same offices or plants, you could not permit that organization to use that as a basic and overriding test of the appropriateness of a bargaining unit. They would simply be shaping a bargaining unit to their own ends and purposes without any regard to the operation of the enterprise, the welfare of other employees of the same employer, and all the varied tests I mentioned earlier as the criteria for the Board, and those are just

about a universal set of criteria. They are followed in provincial jurisdictions in Canada and in the Province of Quebec and they are largely followed in the United States and Australia. Our Board has not dreamt these up at all. They are not all original really, we inherited a lot of thinking on this subject when we came into this field.

[Translation]

Mr. Guay: In other words, if all the employees of the Quebec Banque Canadienne Nationale had made the request they would have had more chance of obtaining certification.

[English]

Mr. MacDougall: I am not sure I understood the point of the question, but I feel sure that if the organizing had gone a little further afield the application for the Banque Canadienne would have had a much greater chance of success. The Board rejected an earlier application where an affiliate, I believe of the CLC, applied for a single branch bank of the Bank of Nova Scotia in Kitimat, British Columbia, because it was not appropriate for collective bargaining. However, the reasons for judgment stated, "We are not at this time going to make any ruling on what is the appropriate unit; it might be a district, a group of districts, a region or some such geographical area." At that time they did not make any determination that the employers' insistence on a Canada-wide bargaining unit would have to be organized before the Board would be prepared to grant certification. Does that help you?

[Translation]

Mr. Guay: This is my last question. As a result of the extensive publicity given to this—and I am thinking of the letters and the cards we have received—I have read time and time again that the CNTU demands representation which is equal to that of the CLC on government commissions. I have read the bill, studied it and re-read it. Is there any provision made for equal representation by the CLC and CNTU to the Labour Relations Board?

[English]

The Chairman: I am wondering if the question is in order. Perhaps you could repeat it?

[Translation]

Could you repeat your question, Mr. Guay?

Mr. Guay: Certainly. I will sum it up to make interpretation easier. Does the bill include provisions giving equal representation to the CNTU and the CLC?

[English]

Mr. MacDougall: In Bill No. C-186?

Mr. Guay: Yes.

Mr. MacDougall: The Board will still be composed of an equal number of employee and employer representatives. I do not see any change in the composition of the Board as distinct from the appeal division, aside from the addition of one other vice-chairman, who I believe the Minister of Labour said would be bilingual. As far as representation is concerned, I believe it is untouched.

• 2150

Mr. Reid: Could I raise a point for clarification, Mr. Chairman? If the Board were to sit in panels, would there then not be inequality between the CLC and the CNTU in cases directly affecting ...

Mr. MacDougall: The bill does not say this. The chairman will have the power to name such panels, and this can be achieved under the regulations.

Mr. Reid: In other words, this is a permissive feature.

Mr. MacDougall: This is permissive, but I think you will look in vain for any inequality in the bill itself.

The Chairman: Mr. Mackasey?

Mr. Mackasey: Mr. Chairman, I realize that it is not normal or logical for me to cross-examine the witness, and I do not intend to do so. I know this bothers Mr. Lewis.

Mr. Lewis: It does not bother me.

Mr. Mackasey: He has been moving around more than normally. Usually he is a very placid person. I am only trying to help ...

The Chairman: You may change that mood if you continue to speak.

Mr. Mackasey: I am only trying, Mr. Chairman, to offer this as a suggestion because I think ...

Mr. Lewis: Without portfolio or as Minister of Labour?

The Chairman: Perhaps we could get on with the questioning.

Mr. Mackasey: Thank you, Mr. Chairman. I think Mr. Lewis has raised a very valid point and I want to help the Committee. This is the point. It has been established through questions by Mr. Reid, Mr. Allmand and Mr. Lewis, as well as the examples advanced by Mr. MacDougall, that the Board at the present moment recognizes as appropriate bargaining units less than national units in case it fragments, in case it establishes a unit as regional and in case it establishes a unit as national. In addition to this, we have an explanatory not to clause 1. You were asked whether or not clause 1 of the Bill adds any powers to the Board and Mr. Lewis rightly pointed out that you were not in a position to offer a legal opinion.

Mr. MacDougall: Yes, sir.

Mr. Mackasey: As the Acting Minister of Labour, I would like to offer the opinion of a legal representative of the Department of Justice or the Department of Labour to establish this point which Mr. Lewis, in his wisdom and experience, feels will help the Committee and which may satisfy Mr. Lewis on this point. I am really only doing this as a gesture of help in order to make the point.

Mr. Lewis: If I did not know you were an Irishman I would quote the Latin about the Greeks.

The Chairman: I draw the Committee's attention to the fact that we have about seven minutes left. Mr. Duquet, would you ask your question, or was that your ...

Mr. Duquet: I asked it.

The Chairman: That was your point of clarification. I now have Mr. McCleave, Mr. Hymmen, Mr. Lewis, Mr. Emard and Mr. Clermont on my list. It is unlikely we will finish by 10 o'clock, but we will work out a solution then. Mr. McCleave?

Mr. Lewis: My name should go to the bottom of that list. I do not think Mr. Emard or Mr. Clermont have asked any questions yet.

The Chairman: Fine.

Mr. Lewis: I should not have a second round until they have asked their questions.

The Chairman: Right.

Mr. McCleave: In his evidence the other day the Minister indicated part of the reason for this amendment was the fact that he felt in the current operations of the Board there was a prejudice in favour of the CLC and one acting against the CNTU, and I think from what has been said earlier this evening we have lost sight of this.

Mr. Gray: I am sorry to interrupt, Mr. McCleave, but on a point of order, Mr. Chairman. Of course we are all at a disadvantage because we do not have the transcript, but I did not understand the Minister to say that he felt there had been prejudice. I understood him to say there had been claims or allegations that this was the case, and to avoid any appearance of unfairness, and he even stressed appearance.

Mr. McCleave: No, he went further than that, but that is not quite the purport of my question and I resent these damnable bogus points of order being smuggled in every so often by the prosecutor for the government side.

This is my question, Mr. MacDougall, and I asked it the other day.

Mr. Gray: I guess you are not talking about me.

The Chairman: Perhaps we can get on with the questioning. Mr. McCleave?

Mr. McCleave: I asked this question the other day, Mr. MacDougall, but perhaps it is not possible for you to answer.

Could you or someone else give us instances of the voting pattern in the operation of the Canada Labour Relations Board to establish whether in fact such a prejudice exists, and that the CLC representatives on the Board will always vote for their own side and will always vote against the CNTU, or that the CNTU representative will always vote for his side and will always vote against the CLC?

• 2155

Mr. MacDougall: I cannot give any pattern because no record is kept, but I know about quite a number of instances where people cross lines, where CLC members vote in favour of certification of CNTU applicants and also the CNTU—I should not use the word “representatives”, they are employee

representatives also whose background is from those organizations; I should put it that way. But they do vote in favour of each other's applications. They also vote, from time to time, for rejection of applications but I cannot pinpoint any voting...

Mr. McCleave: When you say they cross lines, then it is quite possible that in a contest between the CLC Union and the CNTU Union, the CLC man might very well cast his vote in favour of the CNTU application and against the CLC one?

Mr. MacDougall: This happens. After all, the certifications granted to CLC affiliates are 62 per cent of all those filed by their affiliates. Sixty-one per cent of applications for certification made by the CNTU have been granted. This is within one percentage point. Without giving away any secrets—and I am not trying to say what the patterns are—it means that very largely Board decisions are unanimous, in point of fact.

Mr. McCleave: So, generally speaking it can be said, in laying down the first criterion you mentioned, that the Board would consider the purpose of the legislation?

Mr. MacDougall: Yes.

Mr. McCleave: Perhaps another way of putting it is that the legislation has been enacted by Parliament and is in the public interest so the Board, as a criterion, would try its best to operate in the public interest.

Mr. MacDougall: It operates in the public interest and in order to promote stable labour relations.

Mr. McCleave: I was going to come to that; so that we do not have industrial unrest in this country.

Mr. MacDougall: Yes.

Mr. McCleave: By and large the Board has done a good job and has won the approbation of management and labour across this country?

Mr. MacDougall: I believe so.

Mr. Marchand: Just to clarify one point, did it happen once in the past that in a dispute concerning the definition of a bargaining unit you had a CLC representative voting with the CNTU?

Mr. MacDougall: A CLC representative...

Mr. Marchand: Voting for a petition of the CNTU and concerning the definition of the bargaining unit when the definition of the bargaining unit was at stake?

Mr. MacDougall: I should not be surprised if this has happened. I do not know the case you are referring to.

Mr. Lewis: On the same point of clarification...

The Chairman: One moment, please; we are having a summit conference here. I am sorry. You have a point for clarification?

Mr. Lewis: Yes, on the same point. I was just going to give you a case. I do not know what was involved but it concerned the Auto-bus Lemelin Ltee in 1966, and according to my research was an application by the Syndicat des employes de transport provincial against the CBRT.

Mr. MacDougall: Lemelin?

Mr. Lewis: Yes.

The Chairman: How do you spell it?

Mr. Lewis: L-e-m-e-l-i-n, like the writer.

Mr. MacDougall: I do not recall the case.

Mr. Lewis: It was in February, 1966, and a vote was ordered in March. Certification was granted to the CNTU against the existing bargaining agent which was the CBRT. Do you know what was involved there?

Mr. Marchand: I will tell you, David, after that.

An hon. Member: Exchange notes, diplomatic notes.

Mr. Lewis: I suppose the Minister has a right to have confidences that a mere back-bencher does not have, Mr. Marchand, although the confidences may not have come through the ministerial cabinet rules.

• 2200

The associations work us to death, no?

Perhaps Mr. MacDougall can look at it; he will be back, I am afraid.

The Chairman: I do not think that is a very nice way to phrase it.

Mr. Lewis: Let us finish for tonight, Mr. Chairman.

The Chairman: Gentlemen, the way we will leave it is this, if I have your concurrence: On Thursday, February 15, at 11 a.m., the CNTU will be before the Committee and I have allocated two meetings, at 11 a.m. and 3.30 p.m., if necessary. On Tuesday, February 20, 1968, we have the Railway Association of Canada in the morning. If we get through that in short order and if it is the wish of the Committee, we might ask Mr. MacDougall whether he is free to come back to that point. Is it agreed?

Some hon. Members: Agreed.

The Chairman: Adjourned.

HOUSE OF COMMONS
Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE
ON
Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 4

RESPECTING
Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act.

THURSDAY, FEBRUARY 15, 1968

WITNESS:

Mr. Marcel Pepin, President, Confederation of National Trade Unions
(CNTU).

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Allmand,	Mr. Lewis,	Mr. Munro,
Mr. Barnett,	Mr. MacInnis (<i>Cape</i>	Mr. Nielsen,
¹ Mr. Boulanger,	<i>Breton South</i>),	Mr. Ormiston,
Mr. Clermont,	Mr. McCleave,	Mr. Patterson,
Mr. Duquet,	Mr. McKinley,	Mr. Racine,
Mr. Gray,	Mr. McNulty,	Mr. Régimbal,
Mr. Guay,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Hymmen,	<i>North and Victoria</i>),	Mr. Ricard—(24).

Michael A. Measures,
Clerk of the Committee.

¹Replaced Mr. Mackasey on February 13, 1968.

ORDER OF REFERENCE

TUESDAY, February 13, 1968.

Ordered,—That the name of Mr. Boulanger be substituted for that of Mr. Mackasey on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, February 15, 1968.

(6)

The Standing Committee on Labour and Employment met this day at 11:20 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Allmand, Barnett, Clermont, Duquet, Faulkner, Gray, Lewis, McCleave, McKinley, McNulty, Nielsen, Patterson, Régimbal, Reid—(14).

Also present: The Honourable Bryce Mackasey and Messrs. Cameron (*High Park*), Grégoire and Lefebvre, M.P.s.

In attendance: Mr. Marcel Pepin, President, Confederation of National Trade Unions (CNTU); *and from the CNTU:* Mr. Raymond Parent, General Secretary; Mr. Jacques Dion, Treasurer; Mr. S. T. Payne, Second Vice-President; *and from the Syndicat Général de Cinéma et de la Télévision, Section Radio-Canada:* Miss Giselle Richard, Secretary.

The Committee resumed consideration of Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced Mr. Pepin who, in turn, introduced those others in attendance and a group from the Confederated Office of CNTU.

Mr. Pepin gave an oral summary of the CNTU's written brief, and was questioned.

Following completion of the questioning for this sitting, on motion of Mr. Lewis, seconded by Mr. Gray,

Resolved,—That all written briefs be printed as Appendices to the Minutes of Proceedings and Evidence. (See Note below)

At 12:57 p.m., the Committee adjourned to 3:30 p.m. this day.

AFTERNOON SITTING

(7)

The Committee resumed at 3:44 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Boulanger, Faulkner, Gray, Guay, Lewis, McCleave, McKinley, Muir (*Cape Breton North and Victoria*), Nielsen, Régimbal, Reid, Ricard—(14).

Also present: Messrs. Grégoire and Irvine, M.P.s.

In attendance: Same as at the morning sitting.

Mr. Pepin was questioned, assisted by Mr. Payne and Miss Richard.

The Committee adjourned briefly from 5:28 p.m. to 5:37 p.m.; whereupon the questioning of Mr. Pepin continued.

The questioning having been completed, the Chairman thanked Mr. Pepin and those assisting him for their attendance.

At 6:16 p.m., the Committee adjourned to 11:00 a.m., Tuesday, February 20, 1968.

Michael A. Measures,
Clerk of the Committee.

NOTE: The CNTU brief is printed as Appendix I at the end of this issue.

EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 15th, 1968

The Chairman: We will bring the Committee to order.

I apologize first of all for the inconvenience caused by the shifting of rooms. We did not realize there was such massive support for, or interest in, this brief and I hope the equipment will operate satisfactorily and there will be no major obstacles or inconvenience encountered.

Is the sound working all right?

May I request Members of the Committee to please identify themselves before they speak. Apparently there is some problem, so if you could just say "Mr. Allmand" or "Mr. Lewis" and thereby identify yourselves so your remarks will be attributed to the right person and not to the Chairman.

Mr. Gray: Mr. Chairman, while we are finalizing the physical arrangements I would like to propose—I think I am speaking on behalf of the Committee—that you automatically arrange to have a larger room for all our meetings. I think the circumstances that have occurred this morning may give an incorrect impression to many in the audience who may not realize that our facilities are actually very efficient and effective. If we had had sufficient warning of the size of the group that was going to attend, either this room or another of the large rooms would have been suitably organized and we would have been able to move immediately into the hearing of witnesses and discussion of this very interesting brief.

The Chairman: I think that is a fair comment. We will certainly endeavour in the future to have a larger room available.

[Translation]

Mr. Gray: I have to note that we often have large delegations meeting here; that is why we need a larger room. I must add that this is not an ordinary incident this morning. Other committees, such as that of Finance,

Trade and Economic Affairs, which need large rooms and usually meet here, make the proper arrangements beforehand.

• 1125

[English]

The Chairman: Now that the translation system is working, I will call upon Mr. Pepin, the President of the Confederation of National Trade Unions. First of all, Mr. Pepin, would you introduce the key witnesses who are likely to speak, and would you then summarize your brief. We will then get into the cross-examination. Mr. Pepin.

[Translation]

Mr. Marcel Pepin (President, Confederation of National Trade Unions): Thank you Mr. Chairman and gentlemen of the Committee. I am very pleased to introduce to you part of the delegation accompanying us this morning.

On my left, Mr. Raymond Parent, secretary general of the Confederation of National Trade Unions; Mr. Jacques Dion, treasurer of the CNTU: We thought that he should be with us because it is often useful to have the treasurer with you; we also have Mr. S. T. Payne, second vice-president of the Confederation of National Trade Unions, and Miss Gisèle Richard whom Members of the Committee probably know at least by sight, since she has been attending almost every meeting of your distinguished Committee. Miss Richard is a secretary of the Syndicat général du Cinéma et de la Télévision—a union which has had and may encounter more problems with the Canada Labor Relations Board.

Along with this delegation are also present some members of the Confederated Bureau of the CNTU, which is the sovereign directive organization of the CNTU in between conventions. The directors have held meetings here in Ottawa for the past two days because yesterday, we presented our annual brief to the federal cabinet. They were kind enough to come and demonstrate that Bill C-186 was not only a request formulated by the structures of

our organization, but was something which was also desired by the membership and not solely by a few union leaders. And so, Mr. Chairman, this is the delegation here with us this morning.

If you will allow me now, I in turn, would like to ask you a question: I presume that you have a schedule and, in order to clarify things, we would like to know if the Committee intends to hear us all day? Are there any sittings anticipated for this afternoon and tonight? We simply wish to know what to expect. I can officially declare that we are at your complete disposal, but if there were a way of determining how long, how many sittings there would be, we would appreciate it greatly because we have to return home.

[English]

The Chairman: The Steering Committee decided we would devote today to the CNTU, so we can have a hearing this morning and if necessary a session this afternoon which will begin after Orders of the Day, which we hope, would be at approximately three-thirty.

Mr. Reid: Mr. Chairman, if necessary would it be possible to meet this evening?

The Chairman: I think we can decide that later this afternoon. We certainly have this morning and this afternoon at your disposition.

[Translation]

Mr. Pepin: At what time do you generally adjourn your morning sitting, if this is not too indiscreet a question.

[English]

The Chairman: No, no. Ten to one or one o'clock.

[Translation]

Mr. Pepin: Do you mean that the sitting is resumed around four o'clock after Orders of the Day?

The Chairman: Yes, between three thirty and four o'clock, depending on the length of time of the question period.

Mr. Pepin: Thank you, Mr. Chairman and members of the Committee.

• 1130

Last Monday we submitted to the Clerk of the Committee copies of the brief which our

Confederation presented in support of Bill C-186. We submitted it in both English and French. I hope that there are not too many errors in English. I am more certain of the French for I master this language more than the other one. Since this is not the procedure to be followed in your Committee, I do not intend to impose upon you the reading of the entire brief, knowing well that members of the House of Commons are people who work very hard and who, outside the sittings of the House, read all the briefs which are presented to them. I shall then limit myself to giving you a summary in order to leave as much time as possible for questions from members of the Committee or any one who might be interested in the debate.

The brief which we are presenting to you, Mr. Chairman and members of the Committee, is composed of two parts: the first part gives a general explanation of our point of view concerning the central points of Bill C-186. The second part is an appendix which describes the chronological order of certain events which occurred in the CBC question as well as the syndical recognition that we asked for along with the Syndicat général du cinéma et de la télévision for production employees. For the benefit of members of the Committee, I should like to say very explicitly that we of the CNTU consider that there are two central points in Bill C-186 or what I might call two essential points.

The first one is clause 1 of the bill, which speaks of the possibility for the Canada Labour Relations Board of recognizing or certifying a union on another basis than that of a national bargaining unit. This is our first important point.

The second point has regard to the appeal division which is provided for in this bill concerning certain decisions of the Canada Labour Relations Board. As everyone knows, if this new bill were to be accepted by Parliament, when the Canada Labour Relations Board had already rendered one decision, one party could then appeal the decision where sub-section 4(a) of the bill is applicable. Which to say that the possible number of appeals to this three man board is limited to sub-section 4(a) of Bill C-186.

What then are the reasons for which we in the CNTU stress that this bill should become law? I shall sum up here, because, in my opinion, our brief satisfactorily presents the position of our organization.

First of all we state that for us, when it comes to an administrative and quasi judicial

body, as is the CLRB, it is not a question of a parliament. This is an organization which has to apply the law, an organization which must see that a law of our country is suitably applied.

We say that in the field of labour, of course, the representation of workers and of employers is something on which we have always insisted and on which we shall continue to insist.

However, as conflicts may arise between an organization which is called the Canadian Labour Congress and another organization, the Confederation of National Trade Unions, it does not seem normal that the final judgment of such a board be rendered when the representatives of the first organization, the CLC, outnumber the representatives of the second, the CNTU.

Of course, it is easy to say that we do not have the same number of members as the CLC. We admit this; we do not yet have the same number of members as the CLC. But as far as we are concerned, the administration of a law in a country cannot be carried out by means of referendum and it is unimaginable that this law be applied by an organization which has more members than another one.

• 1135

I do not think that I need to speak at length, Mr. Chairman, in this regard, unless members have questions to ask or wish for further information. We go to plead before a board, like the Canada Labour Relations Board, where from the outset, no consideration is taken of any question of integrity on the value of the members and where there are three representatives of one organization, whose interest obviously lies in not recognizing the other organization and where there is but one representative of our federation. It seems quite clear to us, and on this at least Canadians should be unanimous, that we are not on an equal footing.

The bill, as drafted, doubtless maintains an inequality of representation (and here I am interpreting) because the numerical weight of both central labour congresses has been taken into account. However legislation establishes this appeal division, which I alluded to a little while ago, and this appeal division is not composed of representatives of the parties.

It is certain that if a federation like ours did not exist, you would not have to study

the problem we are raising at the present time, and for which certain provisions are made in Bill C-186. We must find out if we accept that people can really make a choice, and can follow right through the outcome of the choice that they exercise. That in brief is our first point.

The second point—and this is also a very important, if not essential point—is that the present act might effectively allow the Canada Labour Relations Board to certify, to recognize on a legal basis, a bargaining unit, whatever its boundaries be, whether geographic or other. I think that section 9 of the present act allows the Board to decide according to its wishes in his regard.

However, we say that since the present act, has been interpreted and applied in a certain way, it now becomes nearly impossible to obtain a bargaining unit which, in our opinion, would truly respect the freedom of the workers to choose their own trade union.

This is why we support sub-section 4 a) of clause 1 of the presumed new bill, in which it will be formulated that the Board can itself decide to recognize a bargaining unit on a basis other than the national basis.

I am particularly stressing this point because we feel that this is where the core of the problem lies. Can the workers choose their trade union? The system which is now being applied by the Canada Labour Relations Board, in our opinion, does not allow us to say that workers really do have this choice.

I am taking the liberty of asking whether it is reasonable to force employees by legal limitations to associate and to unite with people they do not know because of great geographical distances, whom they consequently do not have the opportunity of meeting, with whom they can have contact, only with difficulty—I am adding this point because it will no doubt be the subject of discussion before this Committee—and whose language and culture are not the same.

• 1140

On this point, Mr. Chairman, I would like to take the liberty of reading one paragraph of our brief, which is to be found on page 10 of the French text, in the English text is also on page 10, I believe. That is right.

If the thesis of the adversaries of Bill C-186 were to prevail, there would moreover be consequences of another order. The wage earners of Quebec who are

working in sectors under federal jurisdiction, would be bound to be represented by organizations both unitarian and of English-speaking majority. It is possible that in Canada there are still some people who have yet to understand the unacceptable character of this condition. There is one fact which is impossible to miss but which, for some, is difficult to explain: The people of Quebec who work in areas under federal jurisdiction may no longer, in certain cases, wish to go on being perpetual minorities in the professional defence organisations. One may or may not want to reason this out; the fact remains that it is the truth. It happens that the union reasons they have for wanting their own associations coincide, in these cases, with the language and cultural reasons they might also have to defend themselves with instruments of their own.

I think that this is sufficient to localize the problem that we have raised. Before completing my brief introduction, however, I would like to tell members of the Committee that our organization, the CNTU, is not against the principle of national bargaining units provided the workers are in agreement with it. We do maintain that Bill C-186 does not forbid having national bargaining units. We are saying that this Bill does allow workers to make a choice, to decide for themselves what they want, within certain limits which are circumscribed by the Bill.

I do not think that the Parliament of Canada is therefore an instrument which would legally force the workers to belong to a certain type of trade unionism.

In Canada, if I have understood Confederation rightly since its origin we try to respect the liberty of men and workers. Our friends in the CLC who are violently opposed to this Bill, should, first of all, start by considering that we cannot have forced trade unionism. That membership in a labour organization is a decision resting with the individual first of all, and that we cannot legally force one type of trade unionism.

Mr. Chairman, I stop with these few remarks and if you need any explanations, I am ready to attempt an answer.

[English]

The Chairman: Thank you very much, Mr. Pepin. Mr. Allmand would like to start the questioning, if it is agreed.

• 1145

[Translation]

Mr. Allmand: Mr. Pepin, how many members do you have in the CNTU?

Mr. Pepin: Approximately 250,000 Mr. Allmand. This figure cannot be considered as very accurate because everyone knows that in a labour movement, labour membership increases or decreases according to the unemployment situation.

Let us say that the number of registered members, is approximately 250,000.

Mr. Allmand: Do you have any members outside of Quebec?

Mr. Pepin: We have members in Ontario, we have members in New Brunswick and we have members in Newfoundland. However, I should add, in order to qualify my reply, that our membership is composed of approximately 95 or 97 per cent of Quebec residents.

Mr. Allmand: Do you also have English-speaking members?

Mr. Pepin: Yes, we have English-speaking members. I could not give you any precise figures, but I would say that we are composed of between 90 and 91 per cent French Canadians, and the others would then be either English or other nationalities.

Mr. Allmand: Do you have the intention of limiting your organization to French-speaking people or people from Quebec? Do you intend to extend your union into the other provinces, and also to unite with English-speaking trade unions if you have the opportunity?

Mr. Pepin: There are, I believe, two questions in this statement you have just made. The first one: do we intend to limit ourselves to French-speaking people? The answer to this is negative, since we already have people who are not French-speaking. Moreover we do not believe it would be appropriate for a trade union to be based on linguistic or racial distinctions.

As to your second question—do we have the intention, if we have the opportunity, of organizing people who are not located within the geographical limits of Quebec? I might remind you that the CNTU has an office in Toronto, and that we have a permanent labour representative in the City of Toronto. The CNTU aims at the representation of Canadian workers, and not solely Quebec

workers. That is why we accepted the membership of groups which do not come from the territory of Quebec. Let us note as I have already mentioned, that our greatest operation however, is in the territory of Quebec, but the character as an organization, is national in the sense of Canadian.

Mr. Allmand: Do you have any trade union affiliated to your organization which would have more American members than Canadian members? For example, in the CLC, certain affiliates are of a bigger American than Canadian base, I believe. Do you have any unions affiliated with your confederation which would be more foreign or American?

Mr. Pepin: No, in the CNTU we only have Canadian unions as members. We have no structural affiliation, nor organic organization with any American union consequently, the CNTU as such, is a Canadian organization. Our affiliates are Canadian organizations, whether they be locals, whether they be professional federations, or whether they be central or labour councils.

We have a strictly and jealously Canadian organizations.

Mr. Allmand: You said that in general you prefer national bargaining units. I think perhaps the better expression would be "system-wide bargaining unit," as we say in English. When you organize a union, do you prefer a system-wide bargaining unit rather than a regional unit or factory unit.

• 1150

Mr. Pepin: I might perhaps make a distinction here, Mr. Chairman. Perhaps I was misunderstood. I did not say that we preferred a national unit or the system-wide unit to which you refer. I said that we do not object to them—to national bargaining, according to the will of the workers who constitute viable groups which can bargain, according to the will of the workers again. Do we have system-wide units for bargaining purposes? Generally speaking, all labour relations boards in Canada, whether in Quebec, in Ontario, Saskatchewan, British Columbia or elsewhere, if we want to look up the jurisprudence, recognize and certify bargaining units which are not national in scope because from my interpretation of the labour legislation in North America—and I might tell you here that I am not a lawyer—is that it is centralized on the location of workers in order to determine certification.

Consequently, I can give a direct reply to your question: generally we bargain and we are certified for localized groups. I do not want to take up the Committee's time Mr. Chairman, but if you will allow me, I would like to give you an example of what I mean.

A letter from a member of Parliament was sent to workers who refer to it. We often say that the people of the "packing houses" bargain on a national basis.

This is true, but their certification is on a local basis, or at least in so far as the Province of Quebec is concerned and I think the same phenomenon occurs in other provinces. I repeat, there is a distinction to be established between certification, labour representation, the right to choose one's union and collective bargaining.

Mr. Allmand: Thank you, Mr. Pepin.

Mr. Pepin: Thank you, Mr. Allmand.

[English]

The Chairman: Mr. Reid?

Mr. Reid: Mr. Chairman, I would like to ask Mr. Pepin for a definition of the phrase "natural bargaining units", which appears on the first page of his brief.

[Translation]

Mr. Pepin: I shall not try to give you a complete definition of what we mean by this, but I will at least try to make you understand what we mean.

But before doing so, I would like to remind you that in all cases to determine bargaining units, the Canada Labour Relations Board has the competence to do so. Am I speaking too fast? No? Thank you.

Natural bargaining units, in our opinion, reflect the will of the workers in a given location, in a given territory. I will return to the example of the C.B.C. There is a large building in Montreal—as you know, where there are seven or eight hundred employees in its production unit who were formerly represented by IATSE, an international body. Can this group on its own really negotiate a collective agreement with its employer, in this case the CBC?

I do not think that it is solely the wish of the employees which at that time can make it a matter of a natural bargaining unit. First of all there must have the will. Secondly you have to examine each specific case to see whether it really does correspond to some-

thing viable. I am under the impression that the jurisprudence established by other labour relations boards in Canada and even in the United States would lead us to the same conclusion.

It is not very sound to define a natural bargaining unit, but clause I, sub-section 4(a) of Bill C-186, which allows the board to recognize either by establishment, locality, region, or any other distinct geographic sector, does to a certain extent define what a natural bargaining unit could be and, as is customary—I think this is also suitable—leaves to the CLRB the duty of interpreting and applying the applications which are made.

That is what I can tell you in reply to your question, Mr. Reid.

[English]

Mr. Reid: Then, in part, your concept of a natural bargaining unit would lead to the conclusion that the members of union in a particular industry should have the right to dispense with their unions, if they were not doing a satisfactory job for them, in the same way as the general public has a right to dispense of their politicians if they are not serving them properly?

• 1155

[Translation]

Mr. Pepin: I would not like to enter into political questions, I am sure you will understand.

[English]

Mr. Reid: This is the concept of democracy.

[Translation]

Mr. Pepin: In any case, I want to say that it is one thing to elect a member to the House of Commons and quite another to choose a trade union. The natural unit which we give to the member of Parliament, which is the geographic riding, and the natural bargaining unit we would recognize for a group of employees could be completely different.

But if I understood your question correctly, we are probably on a similar road of explanation.

[English]

Mr. Reid: In other words, it is the concept of freedom of association and the freedom, to some extent, to choose the people who will represent you in dealings with your employer.

[Translation]

Mr. Pepin: I must reply very much in the affirmative to this.

[English]

Mr. Reid: One of the problems we face when considering this Bill is the charge that it will break up national bargaining units which have operated to the benefit of the worker in areas which are perhaps not as well blessed as areas like Montreal and Toronto; in other words, workers in more depressed areas are able to gain the benefit of national wage rates which they otherwise would not have been able to attain had they been left to bargain on their own basis as the regional unit.

The second objection is that it would lead to industrial chaos in Canada by breaking up national unions by causing strikes to take place at a variety of times, as a result of which there would be no organized labour relations in these very vital industries. The railroads are perhaps the best example of this.

What would be your argument against these two points I have put forward?

[Translation]

Mr. Pepin: I think that these are two of the questions that are very often raised at the present time, when people oppose or want to find reasons to oppose the application of Bill C-186, and its adoption: the question of wage parity.

May I tell you that our federation not only is not opposed to wage parity, but would also like to see much more parity and equality in wages, and have them higher than they are at the present time.

You speak to CBC employees about the question of wage parity, because they were in a national bargaining unit with IATSE, and you would really get a general laugh because from the outset, when these employees wanted to form their own trade union, there still were salaries of \$2,800, \$3,000, \$3,200, or \$3,500 per year. This for employees in a national bargaining unit.

• 1200

Now if this is what we wish to protect by maintaining national bargaining units, I do not think that there are many members of Parliament or many people, not even my friends from the CLC who would agree to keeping wages at such a low rate.

In addition, when we refer to wage parity we must not believe in a myth, Mr. Reid. It often happens that though the job content may be different and may vary from one place to the next, you can detail a certain wage rate, the same wage rate for the same type of job in a collective agreement. But types of jobs and job content, or the matching of jobs is something which is very very difficult to attain on a national basis in varied spheres of activity.

As well, there is not only one way of reaching wage parity. I have said it, and I shall do so again. The question of collective bargaining is a different matter from the problem of representation and if there is really, really an objection to Bill C-186 because there is a fear that wage parity no longer exists, then I stated that at least for some industries, wage parity, even with national bargaining units, in a great many cases, does not exist and in the cases where it does exist it is because the wages are far too low.

Travel across the country, listen to the people of some regions say: we are perhaps caught up (in French I would say "*poigné*") in this matter of national bargaining units. They might tell us that the same wages are received in Moncton as in Vancouver or Newfoundland. That is fine, but there are very low wages. Why? Because labour strength, Mr. Reid and Members of the Committee, is not a part of the phenomenon where you would have a very large union in which people cannot exercise their militancy or control their labour organization.

On this first point, then, if the objective is to obtain wage parity, I would say that the amendment in 4(A) and the amendment in C-186 does not go against wage parity. Do not tell me that American auto workers are in the same bargaining unit as Canadian automobile workers. If I have read the newspapers correctly, there has been bargaining on wage parity because they really do establish this distinction between labour representation, the composition of the bargaining unit and collective bargaining itself. Americans and Canadians have decided of their own free will to negotiate jointly. Now, would we claim that in order to obtain American and Canadian wage parity, everyone would have to be certified jointly? I do not think that it could be carried so far by my friends in the CLC.

• 1205

Now your second point: industrial chaos. Will there be a multiplication of strikes and

of lock outs because there will be regional, local or plant bargaining units? No one can answer this by saying: this will certainly lead to such a situation. No one can decide just what the situation will be, even if we maintain the national bargaining units. You know that the workers who feel oppressed, who feel that they do not have a voice to express their wishes, sooner or later can explode the chaos that is feared, that is feared by certain people, could be much more serious at least, to the extent of my knowledge, in the province of Quebec, if we prevent the workers from choosing their own trade unions, and deciding for themselves to which one they will belong, and how they want to build their own organizations for professional defence.

I think that the chaos which some people imagine and the fear they try to instill by using such expressions is very far from reality. Let us consider all the companies which negotiate on a local basis one after another. Take Price Brothers, the Aluminum Company or maybe Domtar. They all bargain on a local basis.

Is there any multiplication of strikes? Is there any multiplication of lock outs? No. There are patterns which have to be decided somewhere. But there are also local conditions which are determined by the employees. The further you get away from the membership, the greater the chance of having true chaos: the closer you are to the human fact, then the less are the chances of having such chaos.

For the time being that is the reply I wanted to make to both your questions, Mr. Reid. I will try to answer more slowly. I am sorry.

[English]

Mr. Reid: No, that is not necessary. You are coming across very well.

I have another question which I would like to ask. If I am interpreting correctly, you said the question of wages was as important as local working conditions to the worker who is represented in the unions, and the question of how much control the worker feels he has over his representatives is also as important as the question of wages. In other words, wages are not the only thing about which unions are concerned.

[Translation]

Mr. Pepin: What you have mentioned is very true. I would not like to give to the members of the Committee the impression

that wages are not important because wages are necessary to live. However, a person working in an undertaking is not solely concerned with remuneration. He is also concerned with the conditions of his employment. There is also, as you pointed out, control which the latter can exercise over his own organization and its leaders. So I reply in the affirmative to the point and the problem you have just raised.

[English]

Mr. Reid: You mentioned the question of patterns in wages. In your opinion is there a national bargaining pattern in Canada, and if so who would be the pace-setters, the ones who set the wage standards for most unions in Canada? Is there any one union that stands out in this regard?

• 1210

[Translation]

Mr. Pepin: Mr. Lewis is suggesting a reply to me which I will not give.

I would hope that such would be the case in certain industries where we are located, but in others, in marginal industries, it would be very difficult for us to establish a pattern. I think that we are sufficiently aware of industrial facts.

Mr. Reid, in my opinion there are no general patterns in Canada with regard to wage determination. For the time being it is not desirable, in my opinion, unless Parliament decides to exercise other controls.

In countries where this does exist, I am thinking of Sweden, this is an example which is often given our province at any rate, perhaps not in the other provinces . . .

[English]

Mr. Reid: Oh yes, we have it too.

[Translation]

Mr. Pepin: Yes, you have it too—you are spoiled. In Sweden when they decide on a pattern for a given year, this pattern is very rarely respected. They go beyond it constantly and this is understandable. If you establish a national pattern in a country like ours you will soon see what this produces when there are such tremendous distances from one region to another. Canada is perhaps—basically three or four countries. In the United States there was an attempt made to have what they call—if I recall correctly, guideline salaries. They were respected, but when there was an aircraft strike, they changed their pattern or guidelines two or three times

according to whether the workers accepted or rejected the proposals made by the aircraft companies.

Here, at the present time, this does not exist. There is not one company which can in my opinion say it will establish a pattern for the rest of the country. Oh, of course when you negotiate a collective agreement, you take into account comparisons with others. When workers from the St. Lawrence Seaway obtain a 30 per cent wage increase, following a 30 per cent increase obtained by the construction industry in Montreal, of course this can serve as an example. We try to obtain the same and may be more when it is possible to do so. But we cannot necessarily conclude from this that there is a pattern pre-determined by any authority be that authority the Canadian Pacific.

[English]

Mr. Reid: I acknowledge what you say about there being no set pattern in Canada, but I was getting at the idea that there are some industries which are more organized, more profitable, and which can afford to pay higher wage rates than those in the marginal areas which, in fact, by their very size and ability to generate profits, do set a standard for all others. Most other unions have their wage rates pegged to this leader. I think, for example, that the impact of the United Automobile Workers in Canada and the steel workers and the steel plants in Hamilton would set wage patterns which would be followed to some extent by other unions which are bargaining in other areas. In other words, there would be a sort of unofficial negotiating pattern for wages established by these leaders.

[Translation]

Mr. Pepin: I think that the phenomena you have just described is a very current one in enterprise in the relationship between employers and employees. If it should happen that one year a trade union, national or international, located in an important industry obtained only a very small increase, this would not officially commit the others. It would, however, place them in a very difficult position. When the shipyard workers or the steel workers or the aluminum workers obtain large wage increases, this helps the others to try to make up for lost time. But this does not mean that there is someone, or a company, or two companies, establishing a national pattern, because, even if you could keep one undertaking or one industry, like steel, for instance, as a point of admiration—

this is the example you gave a little while ago—if in another sector we are very well placed economically, industry is going forward and increasing, productivity is increasing too, we can then obtain more in this second industry than was obtained in the first.

• 1215

If the Chairman will allow me I will make a very small digression. In Canada we have talked a great deal about this question of wage parity between Canada and the United States by taking the case of the auto workers. We took no account at all of the fact that, in other sectors of the economy, some Canadian wages are higher than American wages. On the West coast I think paper workers are not content with what is being paid in the United States. On this question of wage parity on the national scale, on the international scale, I personally would not like to have to present a thesis or doctrine to you. There are some things that can be done and other things that cannot be done. In the case of parity for automobile workers, not only were they right in going for it, even if they did not get it completely, but they would have been wrong and they would have wronged the entire Canadian economy if they had not gone all the way to get it.

[English]

The Chairman: Is that all, Mr. Reid?

Mr. Reid: Do I have time for one more question, Mr. Chairman?

The Chairman: You really do not, but I will permit a brief question.

Mr. Reid: One of the arguments advanced against this Bill, particularly by those unions deeply concerned in transportation, is that they find it necessary to have a union organization which parallels the operations of the company whose employees they represent. They are afraid by the passage of this Bill that you and others will have the opportunity to raid them, thereby reducing their effectiveness as a whole in representing their workers before a company such as the CN or the CP.

[Translation]

Mr. Pepin: Yes, I think I understand the question quite well. I believe that my friends might quite easily raise it. It is a question of choice for the workers. The unions already established and which would be maintained solely through legal force cannot be very happy with this conclusion. Furthermore, the

workers can decide for themselves about the structure that they want without Parliament having to tell them: It is such and such a structure that you need. For this entire problem and as a reply to you, Mr. Chairman, it really comes down to the freedom of choice for workers to make their choice while respecting the statutes of the country and I hope that Bill C-186 will be among them shortly.

[English]

Mr. McCleave: I have two areas of questioning, one of which follows up questions which have been asked previously. I think Mr. Pepin should first be complimented on his very good summary. I think this is exactly what the Steering Committee and the Committee had in mind, and we hope that other witnesses will follow his good example.

The first question I would like to ask you, Mr. Pepin, arises out of, let us say, a practical but theoretical example. Suppose a CNTU union representing the people at the Angus Shops in Montreal achieves a good collective agreement with the Canadian Pacific Railway, but the people represented by a different union, in Ontario—for example, the CPR—try for a better deal than you have been able to reach at the Angus Shops, and to back this up they go on strike. You people who are happy are perforce left without work because the group to the west of you is more militant in this case and brings on, in effect, a national stoppage of a major railway. What would your comment be on a situation like that?

• 1220

[Translation]

Mr. Pepin: You know, it is always difficult, Mr. McCleave, to make a statement on hypothetical cases. However, I do recognize that in the labour world, when there are several organizations, problems can arise even when there is only one organization with parallel jurisdiction among the unions. If, as you have given as an example, it should happen that, with an enterprise like Angus Shops in Montreal, the union which is affiliated to us signs what it considers to be a good collective agreement and that in Ontario another trade union signs a better one following a strike, then in the next negotiations two phenomena would occur: in the first place, it is possible that the other union would try to convince members of our union that they had a better one. That is normal and the law cannot forbid this occurrence. Secondly, workers might say to themselves that since in Ontario such and

such an advantage had been obtained, they too could obtain it with the same organization. Could this lead—and I think this is the central point of your question—to an increase in the number of strikes because there would be possible raids between unions.

Once again, it would be difficult and presumptuous to give a categorical reply one way or another on this issue. I have no intention of trying to tell stories to the Committee and say, no, no, just be quiet we will not have any strikes. It would not be up to us to say this in advance. We are not here to carry on collective bargaining with the Committee but to be concerned with the right of workers to choose their own trade union. But as there has been at least a certain experience, Mr. McCleave, in the field of labour management relations, there are a great many companies which bargain in different locations for presumably similar occupations and yet very rarely do you see a considerable number of strikes. This is because there are, what I called in an answer to Mr. Reid, at least company patterns even if there is no national pattern in the sense of one that would be applied generally throughout the country. However, if you create a precedent at Angus Shops in Montreal by obtaining a guaranteed annual wage or other similar benefits, and if these can be carried elsewhere, the employer or the company bargaining for such a labour contract does not bargain in a vacuum without taking into account the repercussions elsewhere. That is why I would be very much surprised—though I cannot guarantee it—if the management of companies are able to foresee and anticipate that this would threaten industrial peace but, and I add, if industrial peace must be bought at the price of the workers' freedom I would then personally continue to say we have no right to sacrifice human liberty.

[English]

Mr. McCleave: Part of my question, Mr. Pepin, dealt with the fact that the workers in Montreal in this hypothetical example who had achieved an agreement satisfactory to themselves might still find themselves out of work because of a strike somewhere else. This is the point that has disturbed me.

• 1225

[Translation]

Mr. Pepin: This is not exclusive to railway workers. For instance, I would imagine that if

you were to stop nickel production in Canada there would be quite a few Canadian and American employees, who would be affected by the work stoppage in Sudbury at that moment. At least I think so, I am not completely sure. And if it happens that the production of auto parts in the United States abruptly stops, this also has an impact on certain Canadian and even Quebec industries. What I am saying is not to be sought after, but I am trying to tell you that the situation you are referring to is taking shape at the present time and to avoid it, to pass beyond it, no one is trying to establish a system of bargaining or representation either on a national or international basis. I think that everyone will recognize that there is a way of having orderly relationships between employers and employees even if it is not always on the national level, because men live in enterprises; the nation is something abstract to them; their daily work is what matters.

[English]

Mr. McCleave: My second question deals with the appeal provision, Mr. Pepin. I understand that the general practice is that perhaps five or six or more people out of the nine members of the Canada Labour Relations Board will make a decision which could then go to an appeal board or group of three. I am a lawyer and I have never heard of appealing the decision of a larger group to a smaller group. It seems to me there is something offensive in principle about the appeal provision in there; either the Canada Labour Relations Board should be on a basis that is satisfactory to labour and management or something should be done, but not this particular remedy advanced by the government. Do you think that this three-man appeal board is in principle right or in principle wrong?

[Translation]

Mr. Pepin: I could give you a very dry answer to your question and say: Yes, I find it just. I would prefer, if the Chairman will allow me, to explain the answer I have to give you.

The CNTU supports the amendment in the bill and I think that I might explain just what our initial position is, not to ask the Committee to amend it, but I think that my reply, my explanations, will also allow me to clarify our own position on this right of appeal which is found in the bill.

When we go before the Canada Labour Relations Board and there is a question of principle as important as the one we have raised in the case of the CBC, if we have before us 4 labour representatives—3 coming directly or indirectly from one of the two central labour congresses and the fourth one coming from our own organization, we might be wrong, we might be mistaken, perhaps we have some illusions, maybe we are mentally ill, but we think that we have somewhat less of a chance from the start than if we were on an equal footing. That is point number one.

That is why we asked for equality of representation solely in cases of conflict involving a CLC affiliate and a CNTU affiliate. When we make such a request, Mr. McCleave, we also know the conclusion. If it should happen that the representatives of the 2 organizations, two from the CLC and two from the CNTU are divided in a conflict of jurisdiction, the 4 employers will then decide on the choice of the union for the employees. And so, we told ourselves, in a specific case like this it would be better to have the chairman decide by himself.

• 1230

Moreover, Mr. McCleave, in the Province of Quebec, I do not necessarily want to use it as an example, I just want to recall what exists elsewhere, as there are 2 labour organizations there are 2 representatives who are on the "Labour Board", who come from the QFL, the Quebec Federation of Labour and 2 representatives coming from the Confederation of National Trade Unions. Where an inter-union conflict arises, the chairman decides by himself. Let us say that this is what motivated our request to Canadian members and ministers to change the present composition of the CLRB. We are offering another alternative here. Keep the 3 to 1 ratio, keep the right of all members to vote as well even when it concerns Clause 1, or 4(a) of the new bill. However, there can then be a protest before a 3 man board of appeal, one of whom would be the chairman or the vice-chairman, and 2 *ad hoc* members.

I have an idea that this formula is equivalent, for all practical purposes, to the one we already have in one province, not that it is presented in the same way. There is a longer time lapse involved in such a formula. I can say that we are against delay but we are much more for justice than we are against delay. We therefore prefer another formula, but we do believe that the formula which is

in the bill gives the workers and ourselves a better degree of justice than the one we have at the present time. Once again Mr. McCleave and Mr. Chairman, I want to stress the fact that I am not personally attacking the integrity of anyone, of any member of the Board. What I am saying is that they are not there for nothing. I expect they have interests which they have to defend and represent no matter how worthy, how honourable and how honest they are. That is why we are asking for a change and we are saying that the present formula is a formula which deserves a trial in the frameworks within which we are ready to work.

Mr. McCleave: Thank you very much, Mr. Pepin.

[English]

Mr. Pepin: Welcome, sir.

The Chairman: There is the ecumenical spirit or the bicultural spirit.

[Translation]

Mr. Clermont: Mr. Pepin, sub-section 2 provides for the appointment of a second vice-chairman to the Canada Labour Relations Board. Some sectors have suggested that it is not necessary to have a second vice-chairman, but that the government could settle the case simply by retiring the present chairman and appointment a bilingual chairman.

Mr. Pepin: Is this a question you are asking me?

Mr. Clermont: Yes.

Mr. Lewis: Do you agree?

Mr. Pepin: As to the retirement of the chairman, I would say I have no comment since he is not here. With regard to the point, however, of whether we should have bilingual people on the Canada Labour Relations Board...

Mr. Clermont: It was not with this intention that I asked my question, sir, but on the fact that the amendment in subsection 2 would not be necessary if we had a bilingual chairman.

Mr. Pepin: I admit, Mr. Clermont, that this problem raised in Sub-section 2 is for me a little bit of frosting on the cake. If it is to

please French Canadians, personally, I am not asking for anything along this line. What I am demanding, however, is that in organizations like that one, the chairman and those who represent the public should be people who can hear us in French and in English. There is absolutely no sense to our being before the Canada Labour Relations Board with interpretation equipment. The chairman is there, then he takes off his interpretation equipment, then he puts it on again since he cannot understand us in the language which is official in this country, and which is becoming more and more official, if I understood correctly the past week's debates. Until the Canadian government appoints bilingual people to these positions. We and our organization will continue to find this completely intolerable. Those who want to remain, even if they be chairman of the CLRB, could then go to Berlitz and have a crash course in French and try to understand us in that language too. So, as concerns sub-section 2, I do not insist on it, and I am not saying one single word about it.

• 1235

The two major points of the Bill are sub-section 4(a), and the appeal division: as for the rest, let the administration of Canada so arrange things that we can speak before federal boards not only the language of one of the two major groups of this country but the languages of both majority groups. So long as we do not have that, we will not be able to come to Ottawa, go before the CLRB, and have the impression of having justice rendered, because we are not always sure of being completely understood when we have a train of thought, not only a question of words, but a certain train of thought which is not exactly the same as the train of thought of those who are English-speaking. So if we want everybody to be on an equal footing, it is not sufficient to appoint a French Canadian vice-chairman or bilingual vice-chairman. The chairman and vice-chairman—or the two vice-chairmen—must be able to understand both English and French.

Mr. Clermont: You mentioned that you find two important clauses in this Bill. One of them was the appeal division which the Governor in Council could appoint with the chairman or one of the vice-chairmen and two members representing the public at large. There has been an objection to the fact that these two members would come from the

public at large and might be called upon to reverse a decision made by competent people who belong to the actual Board.

Mr. Pepin: It is very sure that if there is a right of appeal, this appeal board can then reverse decisions taken in the first instance. Before the courts, I believe, there are different levels of appeal right up to the Supreme Court according to the cases which are submitted to the courts. Would this appeal board reverse a decision taken by competent people? This is the central issue: the expression "competent".

As I explained previously, due to the fact that we have to go before a board which, in our opinion is—in English it is apparently easier to say is "loaded"—where there are three representatives of one organization and only one of the intervening organization, I can be told that they are qualified and competent people and I shall take off my hat to them, if I have one, but that does not mean to say that the decision they will give will necessarily be a very fair one.

The only point, Mr. Clermont, on which we can argue is the question of delay. In the field of labour, unions can be destroyed by delays. In the case of the LGCT in Montreal, for instance, for two years and ten months these people have been trying to have their right recognized to form a trade union. It is one way. One way to deny justice is to use delay. I hope and trust that the application of this right to appeal will not lead to very lengthy delays. However, as you know, at the present time, there is no right of appeal. There is a board established, as you already know, and it took I do not know how long...

Miss Richard: Three years.

Mr. Pepin: It took about three years to decertify a union which no longer met the wishes of the majority of the members. If it took as long as that I hope then that if there is an appeal board, the time required to act in this sphere will not be doubled. Of course, if matters can be organized in some other way and if there is no right to appeal, it makes no difference to me, but at least let us be assured that there will be both justice—and also what a very famous man, Mr. Nicholson, the Minister of Labour, called "the appearance of justice".

Mr. Clermont: In another sector, Mr. Pepin, the following argument is made with regard to the fact that if the national bargaining

units were broken up, as in the case of railway workers, for example, the workers deprived of promotion and seniority.

Mr. Pepin: Yes. I thank you for bringing up this point. I think that it should be clarified. I will not deal solely with promotion or seniority. I will deal also with the question of manpower mobility within a network like that of the CNR or the CPR.

The right to establish trade unions is a fundamental right which everyone recognizes. The right to collective bargaining is a different right, but one which stems from the first. We can have a form of labour recognition and, on the basis of negotiation, other methods can be found to arrive at negotiations whether they be joint or separate, as we wish. I am not an expert in the union structure which the railways have at the present time, but to reassure members of the Committee, even if the Bill were to pass, I have no intention of becoming expert in this field either. At the present time there are 17 labour organizations, 17 different unions on the railways which are drawn up on the basis of classification or trades and within which there are sometimes groups which have seniority rights limited to a region. Recently, I went to Vancouver and I met railway people who told me of their situation. They told me that their seniority rights, and consequently, the mobility of manpower is regional. It could be national on a theoretical basis, but in practice it seems that it is rather limited to a given region. Moreover, Mr. Clermont, we negotiate collective agreements with companies having a great many factories or plants located here and there, Dominion Tar and Chemical, for example, we met with the employers of all the unions involved, and God knows there are a great many of them, and we did succeed in reaching an agreement on certain forms of possible transfer when there were layoffs at a given location. There are employees who may even be transferred to other provinces. These things are done.

• 1240

But this problem must not deprive the employees of their basic right of choosing a trade union, the phenomenon of political bargaining being completely distinct from the first one and which can be settled in a different way. I therefore say that railway employees applying Bill C-186, even while having regional bargaining units, can negotiate their seniority system, their promotion

system, in such a way that they would not suffer any prejudice. But I am not suggesting here any collective agreement clauses now. It is to be understood that I am using this example.

Mr. Clermont: Mr. Pepin, still with regard to breaking up the bargaining units, we have been told or it has been implied, that your organization objected to the breaking up of bargaining units in public utilities in Quebec because you argued that it was more effective to keep those bargaining unit. I see Mr. Parent is smiling.

Mr. Pepin: I will also take the liberty of answering this question with a great deal of joy because it allows me to clarify a situation.

Quebec legislation, at the present time, is not being examined by the Canadian Parliament nor by authorities of the House of Commons. I presume that the problem is brought forward so that we can see just what the orientation is or to see whether it is simply a case we are raising for expediency here in the Committee. It deserves consideration and we should also clarify a few of this problem's essential points.

Provincial public servants in Quebec are organized into one single trade union. This trade union is affiliated to the CNTU. They are satisfied there. They were certified by the Parliament of Quebec and not by the Labour Relations Board, as in usual in our field. Certification followed a labour representative vote between a union which we then called a "scab" union—a union dominated by the employer—and our organization, the union which was affiliated with us. Our own affiliate obtained 80 or 85 per cent of the votes. The Parliament of Quebec decided to include in the legislation then that there would be one large bargaining unit and a certain number of other bargaining units. At any rate, we can say that the organization of the public servants in Quebec was according to a Quebec provincial plan. So from this we can then conclude that since we have such a situation in Quebec we should have the same situation on a national basis, that is, on a Canada-wide basis. Some people might be amused in drawing this conclusion. That is their own choice, but all the same they will have to recognize that Quebec is one reality and that Canada is another reality. If it is true that Quebec has decided at the present time to have such a form of legislation, I do not know whether the same form will exist for long for I am not

a member of the Quebec legislature as you no doubt know. It is up to it to reach this decision. But even if the Quebec situation were to remain what it is, I do not find it so bad as all that. On the contrary, I think it has made possible certain achievements. But to reproduce it now on a national scale would be tantamount to saying that Quebec and Canada are similar realities. Quebecers can, I believe, find themselves more at home in a labour organization even if Quebec is quite extensive but Canada is even larger than Quebec. They can meet and have their own professional defence mechanism. In forcing them to have one large Canadian union from Vancouver to Newfoundland, people cannot see each other, cannot meet and in addition, do not always speak the same language. I repeat, our claim is not a claim based on racial discrimination or linguistic distinctions. We are a labour organization and we represent workers who want to be represented by us. But let us not forget, as I read in that part of our brief which is to be found on page 10 of the French version, let us not forget that Quebec workers will not always accept being members of a labour organization which they themselves cannot control and which will be controlled by the other majority of this country. It is a very important problem.

That is why if primarily it is on behalf of a trade union freedom that we are waging this fight, we are not forgetting the other aspect that I have mentioned, that I am mentioning now and will probably continue to mention very often.

• 1245

Mr. Grégoire: May I ask a supplementary question to clarify that point?

Does not the Quebec legislation also indicate that the trade union negotiating with the government must not be affiliated with any political party? Has this not also eliminated certain trade unions?

Mr. Pepin: This is a legal distinction, Mr. Grégoire. Section 75 of Bill 55 of the Public Service Act of Quebec states—and here I will give you my interpretation and that of our legal advisers—that the trade unions for public servants and other employees of the government cannot themselves engage in any political activity nor pay for any political party nor be affiliated with a party. As well, the central labour organization to which only these trade unions are affiliated must respect the conditions imposed on the employees' union.

My interpretation is that our labour organization which accepts affiliation of provincial employees' groups, can engage in political activity directly on political party lines, but it must respect the legislation, in the sense that the public service employees union has no right to do so and our central labour organization cannot impose this on them. But you know, I am no lawyer and I will keep strictly on this explanation.

Mr. Clermont: Mr. Chairman, this is my last question, which is a very brief one, and I am sure the answer will be very short too. I am referring to the question asked by my colleague from Notre-Dame-de-Grâce, Mr. Allmand.

As regards your membership, Mr. Allmand asked you how many members your organization had and you replied approximately 250,000 members. Is it 250,000 members or 250,000 due paying members?

Mr. Pepin: 250,000 members.

Mr. Clermont: Thank you.

The Chairman: Mr. Régimbal.

Mr. Régimbal: Mr. Chairman, my questions are brief but I cannot guarantee the length of the answers. I wonder if it would not be wiser to put them off until this afternoon?

Mr. Pepin: I am agreeable to accepting your suggestion.

[English]

The Chairman: If that is the feeling of...

Mr. Nielsen: Before we rise, Mr. Chairman, I have a question for clarification. It is just a brief one. Before I put my question, I would like to assure Mr. Pepin that I had no difficulty whatsoever in understanding his point of view notwithstanding the fact that I neither speak nor understand French.

In describing the Civil Service situation in Quebec you indicated that there was a minority as well as a majority representation. Has not that situation now been changed so that representation is only by a majority?

[Translation]

Mr. Pepin: I will have to admit that I do not understand the question quite well. Would you mind re-phrasing it please, Mr. Nielsen?

[English]

Mr. Nielsen: We were given information at one of our meetings that the law in Quebec permitting minority representation in collective bargaining had been repealed so that now only the majority represents the Civil Service. Is that correct?

[Translation]

Mr. Pepin: No, I think I will have to explain the situation. The Quebec Labour Code was adopted in 1964—the new code. Under the former Labour Relations Act there was a possibility for minority trade unions even when there was a certified majority trade union in an enterprise. This does not refer at all to the question of the provincial public service or to the legislation with regard to the public service.

• 1250

In 1964, the Labour Code was amended and removed minority certification because it signified nothing. This afternoon, however, if you want me to go into this matter a little further, I will do so with a great deal of pleasure but I do not think that it is very relevant to the problem that we are discussing at the present time except that our adversaries in this particular case say that because we agreed there would be no more minority organizations recognized in enterprise under the Quebec legislation, we should now agree that only one national bargaining unit should be considered.

This afternoon, Mr. Chairman, if you do not mind I could go into the matter still further, but I think that members of the Committee will certainly realize that this is a false argument just as others which have been raised.

[English]

The Chairman: Thank you very much, Mr. Pepin. We will resume the hearing after Orders of the Day. There is no way we can determine accurately what time that will be but it will be some time after 3:30 p.m. I hope all members of the Committee will reconvene here after the Orders of the Day.

The first questioner will be Mr. Régimbal followed by Mr. Lewis and Mr. Gray. I am not sure about Mr. Nielsen, but we will work that out later.

An hon. Member: In the same room?

The Chairman: The meeting will be in the same room. Before you go can I have a motion to include Mr. Pepin's brief as an appendix to today's *Proceedings*?

Mr. Lewis: Mr. Chairman, I move that we make a general rule that all briefs be appended to the *Minutes* of the meeting concened.

Mr. Gray: I second the motion.

Motion agreed to.

The meeting is adjourned.

AFTERNOON SITTING

The Chairman: Gentlemen, we have a quorum. Will the Committee please come to order. Mr. Régimbal is the first questioner.

[Translation]

Mr. Régimbal: Before beginning, Mr. Chairman, some of my colleagues have asked me to congratulate and thank Mr. Pepin particularly and I am sure we could also include our interpreters in our thanks for making it possible for everyone to follow and to understand very easily in spite of the speed of Mr. Pepin's presentation. We also would like to point out that in spite of the fact that he is not a CBC employee or a cabinet minister, this was something much above "lousy french".

My first question, to come back to the supposition that Mr. McCleave proposed this morning, in the event of a strike in Ontario affecting Quebec employees who would be satisfied with their conditions all the same would this not be one point which the employees might have to consider if they decided to join such and such a union rather than another one? It would then be the business of the employees rather than of the board.

• 1545

Mr. Pepin: At the outset, Mr. Chairman, I would also like to give particular thanks to the interpreters personally. I was unable to follow the interpretation this morning, and even if I had been able to follow I probably would not have noticed the quality of the interpretation. However, my colleagues accompanying me told me that the interpretation was excellent. I would like to thank them and, of course, I encourage them to continue their good work.

With regard to the question you are raising, Mr. Régimbal, it is quite possible that if employees have a choice to make with regard to labour representation, they will be able to

take into account the point that you have raised. Now, I would like to add however, that at the present time, since there are 17 different railway unions, as mentioned this morning, think of the possible disorder or chaos if one of these 17 labour unions were to decide not to work along the same lines as the others. There might be a strike, whereas 16 other unions had accepted a settlement. Extending this hypothesis to absurdity there could effectively be 17 different strikes occurring on the railways.

Why does this not happen? Because the 17 groups decide that they are going to negotiate jointly and this, I think, supports our argument very well, which is that representation is one thing and that collective bargaining is an entirely different one.

Mr. Régimbal: As concerns of the CLRB, to what extent do you consider that members of the Board are representatives of the central labour organizations?

Mr. Pepin: I think, Mr. Régimbal and Mr. Chairman, it would be worthwhile to try to reply to this question. I do not believe that Mr. Picard, who represents us on the CLRB, is a direct representative of our movement, the CNTU. Nor do I think that Mr. MacDonald, who is the acting President of the CLC, is a direct representative of the CLC at the CLRB. However, these two people nevertheless represent the CNTU on the one hand and the CLC on the other and in executing their mandates they have no reports to make either to the CNTU or the CLC. However, the fact remains that neither the one nor the other can forget that he comes respectively from the CNTU or the CLC. I think, Mr. Régimbal and Mr. Chairman, that this question of representation and mandate is a question we might perhaps qualify in this way: the two movements send delegates to a council and when these people meet and are acting as members of the council, they are completely autonomous. They are not linked in any way to their organization. However, I imagine, as you would, that being a member of a party there is yet a certain party line which is established and I presume—this is a presumption—that this is the case when we have a mandate to a council or to a labour board.

Mr. Régimbal: One of the criticisms made of the CNTU, in this regard, is that it would be the only central labour organization according to the report we have received, which would have given directives to Mr. Pi-

card to boycott the CLRB hearings. I would like to hear your comment on this.

Mr. Pepin: The instructions which Mr. Picard received from the central office of the CNTU were not directives telling him: you will vote in such a way or in such another way. These directives were solely to tell Mr. Picard, we of the CNTU, are asking you not to be in attendance at the hearings during a certain period of time up to last July 27. When Mr. Picard is sitting, we do not intervene, just as, I presume, the CLC does not intervene with regard to its member representatives on the CLRB.

We considered that Mr. Picard, as the official representative of the CNTU on the CLRB, did not need to be at the CLRB under the circumstances which we knew. At the present time, Mr. Picard is an active member of the CLRB, and he receives no directive from our organization.

Mr. Régimbal: My other questions have already been asked, Mr. Chairman.

[English]

The Chairman: Thank you, Mr. Régimbal. Mr. Lewis is next.

Mr. Lewis: Mr. Chairman, I hope Mr. Pepin will forgive me if I ask my questions in English, although I could try to put them in French. I have a fairly wide area of questions to discuss with Mr. Pepin. You will stop me, Mr. Chairman, if I go too long, and then I can come back on the second round.

• 1550

As a takeoff from the questions that have been asked by Mr. Régimbal and to illustrate something that you may help us with, can you tell me what members of the Canada Labour Relations Board were present when your application to represent the employees of Angus Shops was heard by the Board?

[Translation]

Mr. Pepin: I might reply, Mr. Lewis, that Mr. Picard was present but I cannot reply with regard to the entire composition of the CLRB. I was not there myself, and I do not know who was there to represent the employees nor to represent the employers. However, I do know that Mr. Picard was in attendance.

[English]

Mr. Lewis: Let me tell you, Mr. Pepin, that I have made some enquiries about this and I was told that on that particular application there was a chairman, there were two employer nominees, and the only two employee nominees were Mr. Balch, who is the nominee of the Railway Union, and Mr. Picard, who is the nominee of the CNTU. In other words on that particular case, from my information, there was equality between what you call the CLC unions and the CNT Union as far as the employee representatives were concerned. If you should find that that was the situation—I hope I was not misled because I was not present, I asked it of the unions concerned—how can you complain about inequality of representation when there was only one CLC person and one CNTU person at that particular hearing?

[Translation]

Mr. Pepin: In the case you have mentioned, Mr. Lewis, some information has been given you and I have no doubt that it is accurate.

Mr. Lewis: I do not know. That is what I was told.

Mr. Pepin: I am not saying that you know. I am just saying that you are relying on the information that you received.

Mr. Lewis: That is right.

Mr. Pepin: May I take the liberty, Mr. Chairman and Mr. Lewis, of reminding you that according to the information that I received there is a minor regulation of the CLRB that states that when any employee representatives or employer representatives are absent, the vote is taken just the same in the name of those who are absent by those who are in attendance. In other words, what I want to say is that it is hearsay. I regret, this—are you not aware of it?

Mr. Lewis: Excuse me, but it is not correct.

[English]

Mr. McDougall, the Chief Executive Officer, told us two things. He told us if there is not a balance between their employer and employee representatives then there is an equality of vote even though there may not be an equality of members. Secondly he told us that any member of the board who is not present at a hearing and does not hear the evidence does not take part in the decision.

Therefore the case which I gave you is not affected by anyone who was not there. There were only four members of the Board in addition to the chairman and the labour members consisted of one from the CNTU and one from the CLC. What complaint is there about that situation?

[Translation]

Mr. Pepin: Thank you, Mr. Grégoire.

However, I will go even further, Mr. Lewis and Mr. Chairman. If Mr. Lewis can assure me that there will always be only one representative of the CLC who will be in attendance when the representative of the CNTU is there, I will have no more complaints to make. And concerning Bill C-186, the right of appeal will be the only point left to be determined.

Will the employers themselves decide which union will represent them, in the case of opposition between the CLC and the CNTU representatives? And, if I may add, even if it goes beyond the scope of your question Mr. Lewis, what we are trying to obtain does not bear on one particular case. We can talk about the Angus Shops case. I am not quite as well informed as you but I do have some information.

However, Mr. Lewis, it is not a question of a situation peculiar to one specific case: we have to take a little broader outlook. Once again I am asking the Chairman for the authority to go a little further in order to explain myself. I think it might perhaps help the debates.

When you are referring to the Angus Shops case, if you want to say to the Committee of this House that Mr. Picard, the CNTU representative was in agreement with the CLC representative, the employers and the chairman, that is correct. But he was in agreement for different motives from those of, let us say, Mr. Balch of the CLC or of the representatives of the employers. So I cannot solve or settle anything specifically with one particular case. I did however want to give you this information so that the situation would be clear enough.

• 1555

[English]

Mr. Lewis: The reason for my question, Mr. Pepin, is not that I think one case should rule. I understand that you disagree with the decisions of the Board on these applications

in respect of the Angus Shops and the CBC which you had before the Board. Now to disagree with a decision of the Board is one thing—I have had occasion as a labour lawyer to disagree with many decisions of the Board; I disagreed with the Board's decision on every case I lost—but to suggest that the composition of the Board makes it impossible for it to reach an objective decision, which is what you are saying, is an entirely different thing. The reason I cited the Angus Shops example is merely to underline the fact that it is not a question of the lack of objectivity by the members of the Board, it is a question that you disagree with some of the basic criteria which the Board has pursued in these cases. If that is the case do you think it is the job of Parliament to tell the Board how it should decide cases?

[Translation]

Mr. Pepin: You will understand that it is not the CNTU, Mr. Lewis and Mr. Chairman, that can make this decision for Parliament. You are members of Parliament and you will decide yourselves. What I would like to point out to you is the objectivity of members of the CLRB. Are the chances for objectivity the same when on the one hand, there are three representatives of the Canadian Labour Congress and only one from the CNTU, in a case which involves bold of us? That the conclusion be the same for the NDP as for the Liberal Government as in the case of Medicare, for example, there is no problem. But the case which concerns us is, I believe, really a specific case. When on a given subject the representative of the CNTU says that he agrees which the conclusion, that the bargaining unit as called for by the union affiliated to us is not appropriate in his opinion, this does not mean, Mr. Lewis, that the CNTU representative would like it to be understood that he believes in a sole national bargaining unit.

So it seems to me that the chances for objectivity, when we are in an inferior position as to the number of representatives on the Board, are not the same. Perhaps we could argue about other points but it seems to me that on this point we might reach an understanding very easily. If you plead before the Supreme Court and you have judges who for a large part have interests opposed to your own, even if they are honest judges—everyone is honest in this society, especially the members of Parliament—I do not think that there would be an equal

chance. We request nothing other than equal opportunity.

[English]

Mr. Lewis: Well, let me take you a little further, Mr. Pepin, if I may comment on some of the things you say later. You say time and time again in your memorandum—I can turn up the pages in the French version if you want me to—that in insisting on national bargaining units in Canada the Canada Labour Relations Board is going contrary to the actions of all boards in North America. You say that several times. Is that right, Mr. Pepin? Did you enquire about these things? Do you know what the bargaining units are, for example in the United States, for railways, for airlines, and for broadcasting companies?

• 1600

[Translation]

Mr. Pepin: In view of the fact that you are speaking of the United States...

Mr. Lewis: I am speaking of the United States because you spoke of North America which includes the United States.

Mr. Pepin: I am not annoyed because you are speaking of the United States. I know that the NDP is a strictly Canadian party: I am not provoked. What I would like to remind you of—I know that you probably know this better than I do—is that the railway networks in the United States are not national networks. There are networks which cover one or more states, but there are no coast-to-coast systems in the United States.

So it happens that for these systems which go through one or more states, there are state or interstate bargaining units in the United States. I think that this does exist. My reaction is particularly what regards Canada.

You are a lawyer who has rather often pleaded in labour cases and for the railways too, but with regard to labour cases, where companies are concerned, you know as well as I do that the bargaining units are local as a general rule, even with regard to grocery stores.

The furthest we go is to have certification on a regional basis. We feel that, even in the United States, the right to work—perhaps where we are mistaken, mind you, we do not claim to be the fount of all knowledge—but we claim that the right to work in the United States in the final analysis is based on enter-

prise and on the unit which is not large, or not larger than the locality or the location of the enterprise.

[English]

Mr. Lewis: I want to come to Canada in a moment. I just want to make certain that your statement in your brief was made on knowledge, and perhaps not on knowledge. Let me say to you, Mr. Pepin, that on the railways in the United States, to my knowledge all bargaining units are system-wide. You are quite right; there is no railway that goes from coast to coast. Some railways go over several states, but they are not local, they are not regional; they take in the entire employer, whatever distance that employer goes. In the broadcasting and telephone field, for example, the organization NABET has a country-wide bargaining unit with two of the American systems. If NABET is not there, I do not know who the other one is. The communications workers of America have a nation-wide bargaining unit with two employers; I have their names here. In other words, I suggest to you that although they may stretch from coast to coast as in Canada, or they may stretch for railways in the United States over a part only of the country, employer units, complete employer units in the fields of transportation and communications are in fact the norm in North America. They are not exceptional; they are the common norm for bargaining units in North America, and if that is the case, the Canada Labour Relations Board has certainly not done anything contrary to what is the fact in the application of similar laws in the United States.

I will come back to the provinces in Canada, with your help, in a moment. What is your comment on that, assuming that the facts which I have stated to you are correct, and I am certain they are.

[Translation]

Mr. Pepin: If you are very sure that all this is accurate, it is certain that as regards the railways, you are saying the same thing that I did: there is no system which covers the entire United States.

• 1605

Mr. Lewis: The principle is the same, is it not?

Mr. Pepin: Now listen, Mr. Lewis, you know very well you can say that the principle is the same...

Mr. Lewis: I would like to have your comments on that.

Mr. Pepin: I am trying to give them to you if you will let me do so.

Mr. Lewis: Yes, certainly.

Mr. Pepin: You can very well say that the principle is the same and that we will take the American situation, transpose it here to Canada and we will have exactly the same result. You can do this. You are a member of parliament and you have the right to do so, but I remind you that there are Canadian conditions which are not American conditions.

Mr. Lewis: That is true.

Mr. Pepin: I remind you that we have two railway systems in Canada covering the entire country. I would like to remind you that the workers have the liberty to choose their trade union. And in the case of Canada, in view of the fact that we are accepting—I think that you too accept it—that there are realities from a cultural and linguistic point of view... I am not saying that the thesis of the CNTU is based on a racial principle. I hope we understand each other. If there is any misunderstanding I will try to be more explicit.

Mr. Lewis: I understand.

Mr. Pepin: But do you think that the people from Toronto are the ones to choose for the people in Montreal the union that the people in Montreal need? Allow me, Mr. Lewis and Mr. Chairman, to give you a hypothetical example as well. In any discussion it is sometimes necessary to have recourse to hypotheses. I take the hypothetical case, Mr. Chairman, that there is an Angus Shops located in Montreal covering, let us say, 2,000 employees. Now let us say that there is another shop belonging to the same company, Angus, having 1,600 employees in Calgary, or in Vancouver—the place does not matter, as long as it is outside Quebec. Now let us imagine a third shop in the eastern part of the country—for the purposes of my argument—which would have another 500 employees.

Do you know what it means if we were to accept the thesis of national unity as being the absolute rule? We would have only to organize the 2,000 employees in Montreal, as a majority, and then say to the Canada Labour Relations Board: You are going to recognize us not only in Montreal, but also in

Calgary and Halifax. We do not, Mr. Lewis, need to be preoccupied with the other members. We will not bother with them. We will simply organize those in Montreal. It is not reasonable. That is not what I want.

Mr. Lewis: Certainly not.

[English]

With very great respect to you, Mr. Pepin, you ought to know, if you do not, that the hypothesis which you used is entirely false because the Canada Labour Relations Board, in the case of a national bargaining unit or a bargaining unit going beyond one employer or one plant, has always demanded that the applicant have a majority in each part of that bargaining unit. To my knowledge, it has never even contemplated hearing an applicant who tried to get the whole shooting match by representing only the employees at the place where the majority of them worked. Therefore your hypothesis is wrong because that has not been the policy of the Canada Labour Relations Board and I am quite certain it would not be.

• 1610

[Translation]

Mr. Pepin: May I reply to this?

Mr. Lewis: Yes, certainly.

Mr. Pepin: Just one point. If what you are saying is correct, and it probably is...

Mr. Lewis: Yes.

Mr. Pepin: ... then they should also take this into account when the employees no longer want it.

[English]

Mr. Lewis: No, before you feel too satisfied with your answer, Mr. Pepin, let me take you...

[Translation]

Mr. Pepin: I am never happy with the answers I give.

[English]

Mr. Lewis: I was going to say something but I had better not.

I know you disagree, but I suggest to you that the same principle is involved and in a moment I want to come to these direct and concrete things, to the philosophy about the right of employees to choose.

Let me take you to the provincial laws. One of the points I was going to raise has been discussed with you, namely the civil service in the province of Quebec. What was the

situation when you wanted to become the bargaining agent for the civil service of the Province of Quebec? I understand, there was an association of some sort. Is that correct, Mr. Pepin?

[Translation]

Mr. Pepin: Yes, which was nevertheless without certification.

[English]

Mr. Lewis: What you called a company union.

[Translation]

Mr. Pepin: No, I am not certified however.

[English]

Mr. Lewis: No, I know that. But I understand there was also for example the United Brotherhood of Carpenters and Joiners of America representing the employees of the Auto Route Authority in the Province of Quebec. Is that not right?

[Translation]

Mr. Pepin: Yes, and since there was also certification for another group of employees affiliated to us.

Mr. Lewis: That is it.

[English]

But when you sought accreditation did you not argue that the accreditation should be for the entire civil service in one bargaining unit, and that is what you got, is it not?

[Translation]

Mr. Pepin: Just one moment. The public Service Act—Bill 55—was passed by the Quebec Parliament. We tried to get a hearing but Parliament was not willing at that time. We were not the ones who asked for it.

We were ready to be heard by the Houses in Quebec. This was in August of 1965, Mr. Lewis. We wanted to be heard precisely to allow people from the auto routes, to whom you refer, to come and explain themselves. However, no one wanted to hear us and it was Parliament itself that took a decision.

• 1615

[English]

Mr. Lewis: All right. Let me use another example in Quebec. If I remember correctly, there was rivalry with the Canadian Union of Public Employees about Quebec Hydro, is that right?

[Translation]

Mr. Pepin: The only thing I can say is that there were no inter-union raids in that field. I am not quite sure if the French interpretation is correct.

[English]

Mr. Lewis: I said rivalry, not raid.

[Translation]

Mr. Pepin: That is what I thought but there was a representation vote...

Mr. Lewis: Between the two?

Mr. Pepin: Yes.

[English]

Mr. Lewis: And what bargaining unit or bargaining units did you agree upon for Quebec Hydro?

[Translation]

Mr. Pepin: For all the employees of Hydro-Quebec, Mr. Lewis...

Mr. Lewis: I beg your pardon?

Mr. Pepin: For all the employees of Hydro-Quebec.

[English]

Mr. Lewis: Quebec is also a pretty big place. It is not a small place, it takes in a large area. There would be Hydro workers in one city, in another city and in a third city, some of them hundreds of miles distant from each other. What was your philosophy in saying that you wanted a unit covering the entire Hydro of Quebec all over the province?

[Translation]

Mr. Pepin: Because in my opinion, Mr. Lewis, that comes under the same phenomenon I tried to describe this morning. Either I was understood or not understood. Either you admit my argument, or you do not admit it. At any rate, each one has to determine what he believes and what he does not.

In the case of Hydro-Quebec, before there was a representation vote covering all Hydro employees, we tried to take certain precautions among the members that we represented at the time. On the official level, not on the level of the central labour organization—I hope you can follow me—it was agreed that it would be preferable to have a union representative vote in order to represent all Hydro employees.

• 1620

When you ask what type of philosophy this represents, I will remind you of what I said this morning. If you are ready to say that Quebec and Canada are two exactly similar realities, if you want to tell me that Quebec and the rest of the country are exactly the same thing, I cannot do anything about it. I happen to think that they are two different things and we tried to explain this in the brief.

[English]

Mr. Lewis: Mr. Pepin, you say that over and over again and I understand you very well but with great respect...

[Translation]

Mr. Pepin: Thank you, if you understand me.

[English]

Mr. Lewis: I think I understand both what you say and what you intend. I suggest you just answer the point to which I am trying to direct your attention. Is it your idea that Bill C-186 is intended to apply only to Quebec because of the admitted differences that exist in that province. Therefore you keep emphasizing the differences between Quebec and the rest of the country, differences of which I assure you I am fully aware. Does that mean Bill C-186 has application only with regard to the Province of Quebec or should have application only with regard to the Province of Quebec? Is that your intention? Is that your understanding? Is that what you want?

[Translation]

Mr. Pepin: Mr. Lewis and Mr. Chairman, as far as I am concerned, Bill C-186 is not a bill which deals solely with Quebec workers. It is a bill which applies to all Canadian workers. The problems which were raised, I grant publicly before you and before all members of this Committee, the problems which were raised, were raised in Quebec.

But the Bill itself, if I understand the text of the draft which we have here applies to all Canadian workers. The degree of freedom that we are seeking, we of CNTU and all of us together, it is not a measure which can apply solely to Quebec workers. It is a measure which applies to all Canadian workers.

[English]

Mr. Lewis: You are no doubt aware that one of the first attempts to break some of

these national bargaining units was made by the teamsters in British Columbia for the merchandising service of the CPR and that the Canada Labour Relations Board rejected that application for the same reasons it rejected your application at the Angus Shops. Is that not correct? Are you not aware of that?

[Translation]

Mr. Pepin: I believe that what you are saying is quite true.

[English]

Mr. Lewis: So if Bill No. C-186 becomes law and the interpretation is given to it that you have suggested, then the break-up of these national bargaining units need not be limited to Quebec. They could take place in any part of Canada.

• 1625

[Translation]

Mr. Pepin: I think I replied that so far as I am concerned the Bill does not protect only Quebec workers. If there are employees belonging to a national organization and who want to become members of another organization, such as the Teamsters if it is not forbidden in Canada or of the CNTU—I do not see why this should be forbidden.

[English]

Mr. Lewis: I have some other questions as well, but let us speak for a moment about the right of workers to choose which, of course, everyone agrees with. If anyone says he is against that it is like saying he is against motherhood. To go into the labour history in Canada, of which you are as well aware as I, before the introduction of the various labour relations acts into Canada during the Second World War and afterwards, the workers had the right to have any bargaining unit they wished because there was no authority to tell them what bargaining unit they could have. Is that not right?

[Translation]

Mr. Pepin: Before there were any labour laws, workers used to form unions. In order to obtain a collective agreement, they had to force the employer, not legally, but through economic pressures, so that he would sign an agreement.

Mr. Lewis: That is a fact.

[English]

And then we had these various labour relations acts introduced in Canada in order to provide a means for introducing collective bargaining and the recognition of the trade union as the collective bargaining agent without the need for the strikes and disorders which we had in Canada in the nineteen-thirties and earlier. Is that not right? The purpose of these labour relations laws was to have a union recognized as the bargaining agent for a bargaining unit without the strikes we had in Oshawa and various other places in the thirties.

[Translation]

Mr. Pepin: What we were seeking, what all labour movements were seeking, was a certain legal protection. It is not so much for the motive that you point out yourself but so that we could have legal protection. At least this is the interpretation I give to the requests of the labour movement to have labour laws.

[English]

Mr. Lewis: And when we introduced these laws and set up labour relations boards to decide on the bargaining units in every case, Mr. Pepin, whether it is a bargaining unit in a plant or in a province or in the country as a whole, the right of some of the workers in that bargaining unit to choose the union of their choice was taken away. Is that not right?

[Translation]

Mr. Pepin: The right of workers was eliminated when they were a minority in a given location. This I cannot deny. Freedom was limited with the application of a labour law.

Mr. Lewis: Precisely.

Mr. Pepin: What we have to determine is whether we are going to limit it on a national level.

Mr. Lewis: Precisely.

[English]

And if the CSN in Quebec is a bargaining agent, say, for a textile plant—you have some textile plants, or an aluminum plant—it does not matter which...

[Translation]

Mr. Pepin: Yes we have some in almost all industrial spheres.

[English]

Mr. Lewis: And if a group in that plant—say it was an aluminum plant and they were mechanics or machinists—wanted to form a union of its own or join some other union, it would not be permitted to do so under the law. Their right to do so is taken away by the law in Quebec once they are members of a bargaining unit which you represent and for which you have been accredited. Is that not so?

• 1630

[Translation]

Mr. Pepin: I have no comment. I think you know the situation very well, just as much as I do.

Mr. Lewis: Yes that is the truth is it not?

Mr. Pepin: I am not denying it either.

[English]

Mr. Lewis: Then I suggest to you, Mr. Pepin, that the question of freedom of choice that you keep on throwing at us, the Cabinet and in your statement across the country is really not entirely relevant to a regime of law which all the labour unions have approved and which the CSN is in favour of. The moment you have this regime of law, to that extent the right of workers to the union of their choice outside the determined bargaining unit is taken away everywhere in Canada where there is a labour relations law. Is that not right?

[Translation]

Mr. Pepin: Yes, when you have a right to work system, if you will allow me to explain a little bit...

Mr. Lewis: Yes, certainly.

Mr. Pepin: When you have a right to work system which gives a majority the right to represent the entire group, those who are in a minority position obviously do not have the same measure of freedom as if there were no right to work, in the sense that you and I use this phrase.

However, what I am adding is—and this is perhaps where the difference exists between us—that I would not want to see an extension of what exists on a regional level or on a local level, at a plant level. I would not want to see an extension of this on a continent-wide scale. Now if it is true, Mr. Lewis, and

Mr. Chairman, that the right of minorities is thereby limited by this right to work, why then are we going to limit it at the level of a nation or a continent like ours? I believe these are distinctions coming between us.

[English]

Mr. Lewis: Well yes, they are and I do not know whether they are a valid distinction, Mr. Pepin. You say that the rights of these people are broken, are taken away by this, but they really are not, are they? If you have accreditation in an aluminum plant in Quebec and another union is approached by some of the employees, that other union has a perfect right to come in, when your collective agreement is open according to the law, and if that union will take the trouble to organize a majority of the bargaining unit which you represent then the employees can change their bargaining agent. Is that not right?

[Translation]

Mr. Pepin: Well yes, we are not here to play on words, Mr. Lewis. We are saying exactly the same thing. When certification is given and I represent 50 per cent plus one of the membership for the legal duration of my certification, the minority group is certainly limited within an enterprise.

At the end of the legal certification period, when I have signed a collective agreement for duration of one, two or three years in the period provided by the laws of the province or the country, if there are people who as a majority want to change their union allegiance, then they can do so. I do not think we are in disagreement on this point.

• 1635

[English]

Mr. Lewis: No. The point I want to make is that even when that period comes it would not be possible for a group of that bargaining unit in Quebec to break away from the whole of the bargaining unit. The new union would have to take the bargaining unit as decided by the Board. Is that not correct?

[Translation]

Mr. Pepin: When a group makes a request, it is the Board who decides, not the group.

Mr. Lewis: No.

Mr. Pepin: The group goes before the Board and presents its arguments even if it is trying to get away from the general group.

But it is the Board which is responsible for this. I think I am saying the same thing as you.

[English]

Mr. Lewis: Mr. Chairman, I have some more questions but if you want me to end now and come back on the second round I am willing to do so. I do not know how long I have taken, but I feel I have taken as long as anyone, or longer.

The Chairman: If you do not object, I think we will keep to the practice...

[Translation]

Mr. Pepin: I have all my time—I am not in Parliament.

[English]

Mr. Lewis: Put me down for the second round.

The Chairman: All right. The second round is going to start almost immediately but first there are Mr. Gray and Mr. Grégoire. Mr. Gray?

[Translation]

Mr. Gray: Mr. Pepin, I see that on page 11 of your brief you say:

Bill C-186 proposes remedies for the present state of affairs. The bill's provisions do not, of course, coincide with our initial demands far from it.

and later on you say, on page 12 of your brief:

We believe that this bill is both reasonable and realistic, although we are not entirely satisfied with it.

What are your objections or differences of opinion with this bill?

• 1640

Mr. Pepin: Thank you, Mr. Gray for bringing up this problem. In the beginning we were asking equality of representation on the CLRB between the CLC and the CNTU, when there was a conflict of jurisdiction between a CLC affiliate and a CNTU affiliate. We were also asking that employers and workers who were members of the Board not have a right to vote when unanimity did not exist among the members of the CLRB, in a case involving conflict of jurisdiction, again between an affiliate of the CLC and an affiliate of the CNTU. Consequently, that the chairman of the sitting be the sole one to decide. This is

the main difference between what we were asking and what the Bill suggests. The Bill suggests that an appeal division be established. For this reason, Mr. Gray, we maintain that even if the Bill does not coincide precisely with our initial demands, we still feel that it is a reasonable and realistic bill from this point of view.

Mr. Gray: So there are certain important differences then between your initial demands and the Bill which was proposed by the government?

Mr. Pepin: Yes, that is true.

Mr. Gray: So then it is not exactly your Bill.

Mr. Pepin: If it had been my Bill, Mr. Gray, it would have been completely different.

Mr. Gray: The methods taken by the government to solve this problem then were somewhat different from the solutions which were proposed by your group?

Mr. Pepin: That is true, Mr. Gray.

Mr. Gray: Now, I would like to ask you another question. I read the jurisprudence which was quoted in your brief and the brief too. It appears to me that the jurisprudence you quote shows that the board has certification powers for units which are not national in scope. It has already done so on several occasions, sometimes at the request of the CLC, sometimes at the request of the CNTU. That is true, is it not?

Mr. Pepin: In my opinion that is correct. The Canada Labour Relations Board must apply the present legislation which, under the terms of the act itself, does not authorize it to opt for one solution or the other. I think it did different things in the two cases. Now, I would add that the board seems to be showing such a trend, and in the case of the CBC in Montreal and in Quebec, it used what it decided in 1951, to consecrate the national bargaining units. But to give an explicit reply to your question, I would say yes.

Mr. Gray: And if this bill is adopted, there is no certainty at all that the decisions of the board will be in such and such a case different from its decisions at the present time, or that the criteria will be any different.

Mr. Pepin: Here again, sir, I must say that the Canada Labour Relations Board which will exist following passage of the bill will be free to make the decisions that it must make. The CNTU will not be able to give any orders at all. We will plead our case before it according to the conditions and provisions of the act, and then the board will make the decision it deems appropriate in the circumstances.

Mr. Gray: And you would accept them even if they were not completely satisfactory to you?

Mr. Pepin: Well, we would accept them. We would have to bear with them.

Mr. Gray: There is nothing mandatory in this bill C-186 with regard to the board doing such and such a thing. It could act on a request from you or from any other trade union?

Mr. Pepin: No, otherwise the law would provide that it is not necessary to have a board. The board is necessary and we approve of it. Now, once a first decision has been reached, if this involves matters coming under the new section 4(a) of the act, there is a right of appeal which exists, and if the appeal board decides to maintain the ruling given in the first instance, that is up to it. We certainly cannot make the law instead of the board.

Mr. Gray: So then you admit that it could happen?

Mr. Pepin: Oh, yes. It could happen.

Mr. Gray: Even in the questions of regional or national bargaining units?

Mr. Pepin: Yes, it could happen, Mr. Gray.

Mr. Gray: Thank you very much.

Mr. Grégoire: Mr. Pepin, this is probably rather close to what is happening at the CBC, but a little while ago you were explaining to Mr. Lewis that when there is a representation vote among a group of industries, or a group of plants belonging to the same employer, in each separate group the union has to have a majority. What then happens if the union which has an over-all majority does not have a majority in one specific local?

• 1645

Mr. Pepin: In that case, Mr. Grégoire, the union would not represent that group. With your permission, Mr. Chairman, I will give

an example. I think Mr. Grégoire knows about it. It is, the case of the Aluminum plants in Quebec. The CNTU represents, through its affiliates, most of the plants, not all the aluminum plants, but most of the plants where they make aluminum in Quebec. We negotiate on a provincial basis with the employer, but each of the units gives us a mandate to bargain with the employer. There is a new one which has been formed and that is in the town of Laval, the new town of Laval right near Montreal. This plant has 20 or 25 employees or maybe it is 30. It is represented by the United Steel Workers of America and even if we represent the entire Quebec block the Alcan plants in Quebec, we do not represent this particular sector. It is the Steel Workers of America who do represent them. Consequently I think this answers your question. If we do not have a majority in one group we cannot represent them.

Mr. Grégoire: Now if the CLRB refuses to break up the bargaining or representative unit and if, in one specific location, the union which has the over-all majority does not have the majority in that specific location, if that bargaining unit is not broken up, what happens, then, for that particular local?

Mr. Pepin: I am trying to give you an answer.

Mr. Grégoire: In the case of the CBC, for example, in view of the fact that in the Montreal group none of the unions applying had majority, what then happens to the group?

Mr. Pepin: In that specific case, Mr. Grégoire, they maintained the certification of the union which was already established there, it was called IATSE, International Alliance . . . etc. In other words, they maintained the certification of IATSE even though it had, I believe, 22 or 23 per cent of the national vote and even less of the Quebec vote.

Mr. Grégoire: I think they have now lost their certification, have they not?

Mr. Pepin: They are no longer certified as of barely 3 or 4 weeks ago.

Mr. Grégoire: And now, if in a new vote, still no one has a majority within the CBC, in the Montreal section, what then will happen?

Mr. Pepin: At the present time, if I understand correctly, there will be no union.

Mr. Grégoire: In other words, the law can prevent a group of workers from having a union if they do not want to have the union imposed by the CLRB?

Mr. Pepin: That is my opinion, Mr. Grégoire. I shall explain myself, Mr. Chairman. In the case of the CBC to which you refer, as it is really the case which brought about the entire explosion of the problem, when there was a vote—I think it was in November 1966—the vote gave approximately the following results: In Montreal 266 or 269 ballots were cancelled by employees who did not want to vote for either one or the other. In Toronto, according to the results that we have received, and which have been published, moreover, it seems that they voted CUPE, the Canadian Union of Public Employees. In the rest of the country, Vancouver, Moncton, Newfoundland, they voted for IATSE. This means that we were in a strange situation: in one corner of the country they did not want any organization on a national scale if you will, at least that is the conclusion I draw from this: you might perhaps draw others. I do not want to impute motives. I would rather just quote facts.

We know, however, that in Toronto people wanted CUPE. We know that in the rest of the country they wanted IATSE. National unity in a case like this is a little far-fetched, a form of self-delusion.

Mr. Gray: Is this not opposed to what Mr. Lewis was saying, that you have to have a majority in each section?

Mr. Pepin: Would you allow me to add a point Miss Richard has just reminded me of; I think it might be good for you to hear it. If CUPE had succeeded in obtaining 17 more votes in Toronto or in Vancouver, CUPE would have become the bargaining agent for those in Montreal who did not want CUPE as a bargaining agent. I do not think, Mr. Gray, that I am contradicting what I replied previously to Mr. Lewis.

• 1650

Mr. Gray: It was Mr. Lewis who suggested that you had to have a majority in each of the locations in order to have certification.

[English]

The Chairman: Gentlemen, we must remember these proceedings are being

recorded and unless you speak into a microphone your remarks cannot be transcribed.

Mr. Grégoire, you may continue with your question.

[Translation]

Mr. Pepin: I think that when Mr. Lewis asked the question I replied in that way. But now he is not saying the same thing, so I am not saying a word right now. Mr. Lewis can come back to that matter a little later.

Mr. Grégoire: Yes, but the case of Mr. Lewis applied to where the bargaining units could be broken up. However, where you prevent the bargaining units from being broken up, is it also necessary at that time to have a majority in each and everyone of the locals?

Mr. Pepin: If you accept the thesis of national unity at any cost you do not need to have a majority in each of the locals. You only have to have an overall majority on a national basis and the others just have to follow.

Mr. Grégoire: Is this what the law confirms?

Mr. Pepin: At the present time the law, not the bill, does not confirm or deny it. It is left to the interpretation of the Canada Labour Relations Board. The future law, Bill C-186, should you adopt it, does not give any definite answer to this question but does specify however that the Board can certify either on a regional or local basis. I presume that the Board, being somewhat more limited in its prerogatives, would not then be able to do anything it wished.

Mr. Grégoire: Pursuing another order of ideas, in the case of the Angus Shops, there was one labour representative of the CLC, one of the CNTU, and two employer representatives, which means to say that in this particular case, it was the employers who had the effective majority, and who could decide who would represent the Angus Shops employees.

Mr. Pepin: You are absolutely right. If there had been a division between the two labour representatives, it meant that it was the employer representatives who would have then decided for the employees which union was to be chosen, but I am repeating what I mentioned or at least what I think I mentioned. I hope I was clear enough, if not, then

I would like to make some clarifications. The CNTU representative, Mr. Picard, in the case of the Angus Shops—I am not speaking for others now, I am speaking of the representative whom I know, he is not a robot, he can decide what he wants—Mr. Picard, then, believed that the application made by our affiliate was not an application which should be accepted. This meant that, to his mind, the unit should have been larger than the one which had been requested. Whereas, and now I am interpreting, Mr. Chairman, correct me if I am in error, the CLC representative maintained that you had to have a so-called national bargaining unit.

Now, I will come back to your case. In the event that the two had been in opposition, not only on the motives, but on the conclusion too, this would then have signified that the employers would have decided, instead of the employees, what union would represent them.

Mr. Grégoire: And this could happen each time that the two unions are not in agreement on the principle to adopt or the conclusion.

Mr. Pepin: Yes.

Mr. Grégoire: It would be the employers who would decide.

Mr. Pepin: Yes, when the union do not have equal representation. When they have equal representation, the employers then would be able to elect their choice, but when there is inequality, then one of the two unions would decide for the other. Am I being clear?

• 1655

In fact, then, in all spheres of federal jurisdiction or in all fields in which you have to negotiate on behalf of employees working for a nation-wide employer, obviously a union like yours does not have any chance whatsoever; if you rely strictly on the vote of employees from one end of Canada to the other, the CNTU would have no chance, then, to be the representative.

I think that this is quite obvious.

Mr. Grégoire: In other words this is the principle you want to defend.

Mr. Pepin: We want to defend the right of the employees to really choose their union. When you do not know each other, when you

do not have any chance to meet, do you think that a fellow living in Quebec or Montreal can easily know or meet one living in Vancouver, Halifax, Regina or any other place in this country? I think that you cannot legally force people then to group together, to associate, to unite when they have no opportunity to meet each other. This is the principle we are defending. I would like to mention here, Mr. Chairman, that it is not a question of defending the organisation called the CNTU. Of course, no one here will believe that I am against the CNTU. This is quite clear, I hope. But I am saying that it is not a problem pertaining solely to the CNTU as a structural labour unit. It is up to the worker to make a real choice, not a superficial choice, not a theoretical choice.

Mr. Grégoire: That is all, thank you.

[English]

The Chairman: We have one more name on the list for the first round of questioning—Mr. Barnett—then we will start the second round.

Mr. Barnett: Mr. Pepin, I noticed in some of your statements and in some of the discussions with other members of the Committee that there has been a good deal of ranging back and forth in the various examples used regarding appropriate units for collective bargaining between workers who come within the provincial area of labour jurisdiction and the federal area of labour jurisdiction. I do not have any statistics on the relative proportion of such workers in my own Province of British Columbia, but I know that there are a great many more in the provincial area of jurisdiction. I wonder if you, because of your familiarity with the situation in Quebec, could give the Committee any idea of the proportion of workers, either organized or potentially organizeable, in Quebec who lie within these two spheres of labour jurisdiction?

• 1700

[Translation]

Mr. Pepin: I will try to give you an answer, though I am not quite certain that I completely understood the meaning of your question. You asked me the proportion of Quebec workers who were, first of all, organized into trade unions, and you also asked me the proportion of Quebec workers who came under federal jurisdiction; is that what you asked or did I miss it completely?

Mr. Barnett: Either organized or who can be organized.

Mr. Pepin: Quebec workers under federal jurisdiction?

Mr. Barnett: The Quebec workers who come under federal jurisdiction in the field of labour relations.

Mr. Pepin: I am sorry, Mr. Barnett, I do not think I can give you an answer. It is not that I do not want to, it is just that I do not have the figures before me.

[English]

Mr. Barnett: Would you agree that the situation in the province of Quebec is the same as the one I described in British Columbia, that a great many more of the working people who are engaged in various occupations come under the jurisdiction of the provincial labour laws rather than under the federal labour laws?

[Translation]

Mr. Pepin: The only thing I can say is that, generally, the right to work is a provincial right and that for the very great majority of workers, with regard to their jurisdiction in order to determine the location to which they refer, it is the provincial field. What is true in British Columbia is just as true in Quebec and the other provinces. As everyone knows, there are bank workers, railway workers, CBC workers and certain other organizations on a national level who come under federal jurisdiction and not under provincial jurisdiction. You have the longshoremen, mill workers who, by accident, a historical accident no doubt, come under federal jurisdiction too, but to reply to your question Mr. Barnett, let us say that it is true, for most of the workers in the provinces, that their jurisdiction is provincial and not federal.

Mr. Grégoire: Would federal civil servants also come under these categories?

Mr. Pepin: Federal civil servants are protected by other legislation which was originally Bill No. C-170. I do not remember what the name of the act is, but they are not covered either by the present IRDA Act nor by this new Bill No. C-186.

[English]

Mr. Barnett: Mr Pepin, I take it we would be in agreement that the problem we are discussing, so far as it relates to the working

people of Canada, is a matter that affects only a relatively small number of the total working force in a rather specialized and narrow field of occupations or industries. Is this true?

[Translation]

Mr. Pepin: I would say that it is a more limited number of employees than the number of those who are covered and who come under provincial jurisdiction. I would add, in case this might be your conclusion, that the level of justice should be the same, whether there are 5,000, 10,000 or 100,000 employees involved.

• 1705

[English]

Mr. Barnett: I would not disagree with you on that at all, but the situation in which we are involved in this Committee, is one that arises out of certain provisions of the Constitution which, if I understand correctly, assigns to federal jurisdiction only certain areas of activity in the working life of the country that, by their very nature under definition, are national in scope.

[Translation]

Mr. Pepin: Yes, of course, and it is for this reason that we are before you. The Canadian Constitution is so drafted that there are fields of federal jurisdiction and we are before you because there is a federal jurisdiction involved, but it is not necessary because it is a federal jurisdiction, to be against us.

[English]

Mr. Barnett: I gathered from the reply you gave earlier to a question about whether there are members of your organization in provinces other than Quebec, that in essence you would regard your organization, and I judge this by your name, as one that is national in scope, potentially at least.

[Translation]

Mr. Pepin: That is right and I will maintain it again. I repeat that we do have members in the province neighbouring Quebec, that is Ontario. We have some in New Brunswick, we also have some in Newfoundland, but I would repeat that the vast majority of our union membership is in the province of Quebec. But even if this is true that is no reason for other Quebecers even those who even come under the federal jurisdiction, in the labour relations field, not to be able to choose their own union.

[English]

Mr. Barnett: If I heard correctly earlier in the session you mentioned that you have been in Vancouver recently and I gathered this would be in your capacity as the President of the CNTU. Would this in any way be related to activities designed to indicate that your interests are national in scope, or is that a fair question?

[Translation]

Mr. Pepin: Thank you for asking me to explain the purpose of some of my trips. I will do so with pleasure. When my colleagues and I went to Vancouver it was to attempt, I am not going to say that we succeeded, but it was to attempt to explain to our fellow Canadians in Vancouver the rectitude of our position with regard to Bill C-186. And we did not have to carry a CNTU membership card at that time even if, once we were there, some of them asked us if it would be possible for them to sign membership cards.

[English]

Mr. Barnett: In relation to what I was just saying about the federal sphere of labour jurisdiction and the special nature of it, by definition, almost, those areas that are under federal labour jurisdiction are national in scope. I would like to ask you whether there is not a suggestion in this proposed new clause 4(a) of the Bill to the Canada Labour Relations Board that they should begin to act and think as if they were a provincial labour relations board, in relation to industries such as the railways and others that I would suggest by definition are national rather than provincial or local in scope.

[Translation]

• 1710

Mr. Pepin: I was somewhat tempted to lose my temper but as I know that your questions are solely designed to obtain the most clarification possible, I will try to control my emotions to the extent that I can. We are not asking, and the Bill does not require, that the Canada Labour Relations Board act as a provincial organization, not at all. The CLRB, the Canada Labour Relations Board, will have to act under the legislation by saying: I can certify on a national basis, I can certify an independent establishment: I can certify local or regional sectors or any other distinctive geographic sectors. This, Mr. Barnett, does not imply that the CLRB should act as if it were a provincial labour relations board. It

has criteria with which to take the most appropriate decisions in the cases that are before it. At the present time, was the CLRB acting on a provincial basis when it certified CBC employees in Montreal?—I believe that they were char people, the maintenance staff. No. At that time it was acting as a federal organization, under federal jurisdiction. So if you establish criteria for a council under federal jurisdiction, it will apply these criteria. I do not think that we can thereby draw the conclusion that this Board would be acting as if it were a provincial board. There are criteria to be followed. They are indicated in the legislation and it will be up to the Board to apply them.

[English]

Mr. Barnett: I can assure you I was not trying to provoke you but I felt that was a question that has some relevancy to the introduction of this particular wording into the bill and I thought it was a fair one to ask you. I did have some questions I would like to have asked you on this whole situation that has arisen from the development of labour legislation which, in my own view, has inevitably resulted in the relinquishment of some freedoms by working people in trade unions and the gaining of certain other freedoms. As Mr. Lewis did enter into that area of discussion and may wish to pursue it further, I will not do so.

In the light of what you have said about your visit to Vancouver and so on, would you agree, even under the restrictions that we have in existing legislation on the freedom of workers to choose where they are going to be in a collective bargaining picture, that you have equal freedom with any other organization or group or as an individual to seek to change the particular collective bargaining pattern that may be established now or as it is developed from time to time, and that in that sense any of us who may have had association in any way with the trade union movement have equal freedom in that respect.

[Translation]

Mr. Pepin: I would like to see whether or not I understood your question, Mr. Barnett. When you refer to the legislation are you referring to the bill before you, or the existing law? To answer the question I think I must know at least what you are referring to.

[English]

Mr. Barnett: I feel my question would apply either as the Act now stands or, for

that matter, as it would be if it were amended according to the terms of this Bill. I ask this question with some sympathy, being someone in a democracy who, for quite a long period of time, has been in a minority position in another sphere of organization and representation and I ask it believing that I have a freedom in my particular sphere of operation that is equal to that of anyone else.

[Translation]

Mr. Pepin: Thank you very much for rephrasing the question again and for asking it. I understand that if you had already been in a painful position, you would understand better. Here I am doubly a minority: from the trade union point of view and from the cultural and linguistic point of view. But all the same I do not feel too embarrassed by this. From the point of view of numbers, this is the situation. I would like to say that with regard to the present legislation, equal opportunity does exist. I will speak later of Bill C-186. Here I am not referring to the various interpretations policy or jurisprudence policy being understood as jurisprudence. If I look solely at the present text of the IRDI Act, I can say that in this regard, we can have equal opportunity because there is no question of consecrating what we have now agreed to call a national bargaining unit. But where I do not have equality of opportunity under this legislation is when I go before the Canada Labour Relations Board because if I go before the Board and if there are three on the one side and one on the other from the worker's point of view, you will agree that I have much less chance of success than the others. Bill C-186 itself does not give all the answers. It does give certain criteria and certain principles, in particular, under the section we have been discussing since this morning, that is section 4(a). But this does not mean that inevitably what we maintain with regard to the CBC and with regard to Angus Shops in Montreal, we will obtain from the CLRB. It will decide instead in relation to the new Section 4(a). But, where the article re-establishes a certain proportion and balance with regard to the existing situation, is that at least if we lose the decision by the CLRB, a lawyer would say we have 24 hours to damn the judge, after which we have to accept the situation. We would first of all take the 24 hours and then if we want, we would use the section providing for appeals from the Board's decisions. The Board can either

confirm the original decision or revoke it, one or the other. But here I think we would have a better equality of opportunity. I hope this answers your question and that is what I had to say on this matter.

• 1715

[English]

Mr. Barnett: Just one final question for clarification more than anything else. On page 10 of your brief in the English text you refer to the fact that workers in Quebec would be pledged to being represented by organizations of the English-speaking minority. If I heard your remarks correctly you said that you did not feel that it was appropriate that trade unions should be based on linguistic groups. This arose out of some question of your representation in other provinces, and so on. I wonder how you square those two statements?

[Translation]

Mr. Pepin: I think they are reconcilable and can be conciliatory. The basis of our claim is the potential freedom of choice, but not just a theoretical freedom, a practical and effective freedom.

What we are trying to make you understand is that freedom of choice exists more in theory than in practice in a system where the certification of a national bargaining unit is at stake. Now, please note, sir, that I will not do you violence, even if I do not agree with you, but herein lies the basis of our argument. In this country called Canada there are two cultural groups who apparently were the founding people of the country. One of the groups is primarily located in Quebec, and the others in the nine other provinces. Quebecers who have a majority in their own province as French Canadians and as workers, become a minority with regard to the rest of the country. This is a fact.

This affirmation constitutes the very basis of our argument for freedom of choice by the workers. The problem then becomes more complex. When you have before you two realities like this, and you accept nothing but a national bargaining unit, ipso facto you condemn the Quebec workers who are the majority in French Canada to be a part of the trade union organization for the defence of their profession or occupation where they are a minority in English-speaking or Anglo-Saxon

organizations. Personally I have nothing against Anglo-Saxons. That is not the problem. But you will surely have problems when you do not allow people from one territory to have their own labour instruments. Try and destroy the parliament of Quebec and see what kind of problems this would pose! Moreover, I think it would amount to the same if we tried to destroy the parliament of British Columbia. Mr. Bennett would not like that. But also try to destroy the institutions which are proper to Quebecers, and you will encounter similar problems! I do not know whether I am convincing enough in this matter. I would like to communicate my own faith and zeal in this connection, but I think the national interest is involved in the Canadian sense of the term, in allowing first of all for true freedom of choice, true trade union freedom, and this first condition is being made more urgent by the Canadian situation, a situation involving two ethnic groups which everyone recognizes on paper. But dealing with a specific case, we have a little more difficulty in practice. This is what I want people to realize. But do not pass this law just for Quebecers. That would also be an error. Let us do it for Canadian workers, taking into account the Canadian realities: the co-existence of two ethnic groups.

• 1720

[English]

The Chairman: Yes, I would just conclude by saying that some people think we from British Columbia are an even more different people than those found in any other part of the country. I told some of my colleagues from Ontario that at times I find myself feeling more affinity with the Quebecois than I do with some of the Ontario people. I do not know whether that is relevant.

[Translation]

Mr. Pepin: It is somewhat because of this that I felt that we understood each other very well.

[English]

The Chairman: Mr. Reid?

Mr. Reid: I believe it was Mr. Clermont who brought out some points about the labour composition on the Quebec Labour Relations Board. I would just like to review for my own satisfaction what they were. The employee representation on this Board is

made up of two members from the Quebec Federation of Labour and two members from the CNTU. Is that correct?

Mr. Pepin: That is correct.

Mr. Reid: Opposing them, shall we say, for lack of a better term, there are four employer representatives and a neutral chairman?

[Translation]

Mr. Pepin: That is true.

[English]

Mr. Reid: Right. So in Quebec, even though we are told by the CLC that the Quebec Federation of Labour had more members affiliated with it than are affiliated with the CNTU, you have equality of representation on the Board?

[Translation]

Mr. Pepin: We have equality of representation on the Board. I will make no comment on the strength of the representation of the two organizations.

[English]

Mr. Reid: That is a fair point. When there is a conflict between a syndicate affiliated with the CNTU and a syndicate affiliated with the Quebec Federation of Labour, the decision is then made with equality of employee representation, or do the two groups split and the decision is made by the employer representatives? Is that the way the system works?

• 1715

[Translation]

Mr. Pepin: No, when there is an interunion conflict in Quebec, the decision is not reached either by employees or by the employers. It is reached solely by the chairman of the Board... the employee-employer representatives act only as assessors on the Board in a case like that.

[English]

Mr. Reid: Is this then what happened when one of the syndicates affiliated to the CNTU came before the Quebec Board with respect to organizing the workers at the General Motors plant at Ste-Thérèse.

[Translation]

Mr. Pepin: If there is a conflict at Ste-Thérèse between a union which is our affiliate

and the union affiliated to the USA or the Quebec Federation of Labour, then I can tell you again that the chairman alone reaches the decision.

But in an undisputed case—let us say, when we are not in attendance and our friends from the QFL are, then those who are sitting on the Board at that time all have a right to vote. It is only in the case of an inter-union conflict that the chairman alone decides.

[English]

Mr. Reid: And this happened again when you had a conflict over the organization of the workers of the Quebec Hydro.

[Translation]

Mr. Pepin: That is true.

Mr. Boulanger: A supplementary question, Mr. Chairman, if you please. At the time of Bill C-55 when you were refused referring to Bill C-55, you had discussions and debates on this. Is this what you tried to explain?

Mr. Pepin: Bill C-54, the Labour Code.

Mr. Boulanger: The Labour Code?

Mr. Pepin: Bill C-54, in 1964.

Mr. Boulanger: You did not have the opportunity of explaining yourselves to the provincial government?

● 1725

Mr. Pepin: Would you allow me to be more specific? Thank you. Bill C-54 is the present Labour Code. We had the opportunity of explaining ourselves before the Houses along with our friends from the QFL and consequently the CLC, because the QFL is part of the CLC, and at that time we made our representations. The proposed bill, Bill C-54 at the time, contained clauses which I have just explained to the members of the Committee, and there was no opposition either from the QFL or from us. On the contrary, I think we were all in agreement on it.

When Bill C-55 came in in 1965, the Public Service Act, we, the CNTU, representing the Public Service Union, asked to be heard by the House after the formation of the committee, as is traditional and there were no recriminations on the part of our friends from the QFL at that point. They were probably on a trip and we were not successful in having a

hearing. The members did what they wanted to then.

[English]

Mr. Reid: If I may return to what I was asking, in Bill C-186 the same type of equality of treatment in contested cases that you now receive before the Quebec Labour Relations Board?

[Translation]

Mr. Pepin: Mr. Reid, this was our initial request and it still is what I would find the most practical thing. However, I repeat that I am taking into account, as president of an organization called the CNTU, the fact that we have less members compared to the CLC and it is undoubtedly for this reason that a new procedure was found in order to give us better justice than we had been able to obtain, at least apparently so, under the Canada Labour Relations Board. The ideal situation for us in a conflict of jurisdiction, Mr. Reid, would be for both unions, the CLC and the CNTU, to have equal representation. Taking into account the fact that we are a minority, here again; let us provide for an appeal board. We agree on the Bill as it is presented for the reasons I indicated but it tends toward the same conclusions as what we have in Quebec.

[English]

Mr. Reid: Yes. Part of the difficulty, of course, has been caused by the fact that two of the unions that you are going after, or two of the groups of employees you are going after, are members of national bargaining units. And yet there were elections among the employees at the General Motors plant, and elections among the Quebec Hydro workers, in which unions affiliated with the CLC were victorious over the CNTU. Is that correct?

[Translation]

Mr. Pepin: In the case of General Motors there was no contestation on the part of any affiliate of the CNTU. To my knowledge, and as I remember, there was no vote in that case. There was direct certification there was no contestation, it was not contested.

In the case of the Hydro Quebec employees, there was a contestation, there was a vote, and we lost it. We respect the loss we encountered.

[English]

Mr. Reid: The point I want to make from this is that where a union is doing a good job

of servicing its employees—and that holds true in Quebec when it is necessary to make concessions because of the language of usage of the workers—the workers will vote for the union which is going to give them the most assistance and the most help; in other words, the best deal.

[Translation]

Mr. Pepin: Of course you are now asking me to interpret the vote on the part of the employees. I would say that the employees can make this choice based on the efficiency of a union, based on the efficiency of their representatives. They can also vote because they do not want to be members of an international union which is consequently dominated by Americans.

• 1730

[English]

Mr. Reid: In other words, the freedom of choice has been there for the workers of Quebec?

[Translation]

Mr. Pepin: Certainly.

[English]

Mr. Reid: And they have exercised this right?

[Translation]

Mr. Pepin: That seems to be the case.

[English]

The Chairman: Have you finished, Mr. Reid?

Mr. Reid: No, I have one more sequence, if I may go into it. I would like to bring up one point dealing with clause 5 of the Bill which deals with the Appeal section.

The present Board is made up of individuals who represent points of view; that is, it is an interest board. There are four representatives from employees, four representatives from the employers, and a neutral chairman. Would you agree that the amendments to Section 61A as proposed by clause 5 Bill C-186, would constitute a radical departure from this concept of an interest board and make it a public interest board, because presumably the two people who would be appointed to hear the appeals would be people who would be not from the employer side or even from

the employee side, but would be people as neutral in labour matters as the government of the day could find.

[Translation]

Mr. Pepin: If I understood your question correctly, Mr. Reid, you asked me whether I believed that the public interest would be protected by the new proposal contained in this Bill before us.

[English]

Mr. Reid: No, no. I am suggesting that in effect the Appeal section would change the whole nature of the Canadian Labour Relations Board as it now is, would take the power to determine bargaining units away from the interest groups directly affected, that is, the employers and the employees, and put it in the hands of an entirely separate body which would not be connected with either of the interests involved, if the appeal section were invoked.

[Translation]

• 1735

Mr. Pepin: Of course it does change the situation. The Board, as established at the present time, providing for a 4/4 employee, employer membership, plus a chairman—and an appeal section, is not the same situation as the one we now have. But it seems to me that what will happen is that when there is an appeal, the appeal board at least have the decision rendered in the first instance. I do not think that this can be so very different from what is generally going on in the labour world—so far as I know, at least.

At your request I told you what is happening in Quebec, and I do not think that we are very far from what I would call elementary justice, in the sense that it is not the weight of one party that can influence the decision, but rather an appeal board which would not be composed of the parties involved and consequently would not be directly interested in the conflict. I think this would serve the public interest, assuming that those who are appointed as members of the appeal board are people who have certain qualifications in the field of labour relations.

[English]

The Chairman: That is fine, Mr. Pepin. During this interruption I might point out to you gentlemen that the Committee will be sitting until six o'clock. On my list of speakers after

Mr. Reid, I have Mr. Lewis, Mr. Régimbal and Mr. Gray. We might therefore very well be faced with the situation of a meeting tonight or, if that is impossible, convening this group again at some other time.

An hon. Member: There is no reason why we cannot meet tonight.

The Chairman: Is that agreeable to you?

An hon. Member: Yes.

The Chairman: All right, we will continue.

[Translation]

Mr. Pepin: Even if we do adjourn at six o'clock could I have three or four minutes to relax, and then at six o'clock we would adjourn just the same?

Mr. Gray: We would adjourn before eight o'clock even if we sit tonight.

Mr. Pepin: All I want is three or four minutes right now; would that be possible? If it is not asking too much?

Mr. Boulanger: Members of Parliament are human, this is the proof of it.

Mr. Pepin: You do respect human freedom.

[After recess]

The Chairman: I call the Committee to order. Mr. Reid?

Mr. Reid: That is all, Mr. Chairman.

The Chairman: That is all? Well, that intermission was worth a great deal.

Mr. Gray: Good tactics...

The Chairman: I spoke to him, but I did not think I had spoken to him that effectively. Mr. Lewis?

Mr. Lewis: Mr. Pepin, I would like to understand the Radio-Canada matter better. Before I ask you these questions I should tell you I have a great deal of sympathy for the employees of CBC who had doubts about IATSE. To use an adjective that has now become part of the political vocabulary in Canada, probably they were a "lousy" union.

The Chairman: You are out of order.

An hon. Member: What is the French for that?

Mr. Gray: Are they CLC affiliates?

Mr. Lewis: Pardon?

Mr. Gray: Are they CLC affiliates?

Mr. Lewis: Oh, there are some lousy unions that are affiliated with all organizations. I imagine Mr. Pepin is sometimes unhappy about some of his affiliates; I am not using the adjective "lousy", but...

[Translation]

Mr. Pepin: No remarks to be made.

[English]

Mr. Lewis: I am not asking you, I am just saying that. The CSN is composed of human beings as well as the CTC, and you have the same problems, I have no doubt.

The application that your affiliate made in the case of the CBC covered some 20-odd classifications—Mademoiselle Richard will probably know—or a good many classifications. Is that right?

Mr. Pepin: That is right.

Mr. Lewis: And if I remember correctly it was not limited to either the English network or the French network; it covered classifications used by both networks. Is that not right?

[Translation]

Mr. Pepin: I will check if you do not mind.

Mr. Chairman, Mr. Lewis, to answer such a question is rather more complicated than asking it.

Mr. Lewis: Perhaps.

Mr. Pepin: Because it seems that, first of all, there are two networks, and I think everyone in Canada recognizes that fact. There is an English network and a French network but in addition there are also administrative divisions within the CBC. There is an administrative division for Quebec and this can include part of the English production but I would not be able to give you a definite reply, Mr. Lewis, in this regard.

• 1740

Miss Richard also adds that it is the English production in Quebec without being necessarily the English production for the national English network. That is why I am qualifying my answer and I am trying to give it to you as objectively as possible.

[English]

Mr. Lewis: Yes, we are not in disagreement. That was my understanding. There is

an administration for the CBC in the Province of Quebec covering both French and English language stations and French and English language productions. Is that right? You were dealing there with classifications such as stage hands, were you—not cameramen?

[Translation]

Mr. Pepin: Film cameramen and not those of TV.

Mr. Lewis: Cameramen of film; and you had stage hands and all that kind of classification; is that right?

Mr. Pepin: I think that you are speaking of stage hands. They are in fact part of the unit we are still trying to represent, I believe.

Mr. Lewis: When the vote took place was CUPE the organization that was on the ballot?

Mr. Pepin: Which vote are you referring to, Mr. Lewis?

Mr. Lewis: Was there more than one vote at the CBC?

Mr. Pepin: As you know, there was a vote in 1953, I think, another one in the IATSE group around 1958 or 1959 and another one in 1966 between CUPE and IATSE.

[English]

Mr. Lewis: You spoke earlier of certain votes that were given. That was between CUPE and IATSE?

Mr. Pepin: That is correct.

[Translation]

Mr. Lewis: In 1966?

[English]

Were any votes cast for CUPE in Montreal?

[Translation]

Mr. Pepin: Yes, surely.

Mr. Lewis: Pardon me.

Mr. Pepin: There certainly were.

[English]

Mr. Lewis: Do you remember how many? You gave us the figures on how many spoiled their ballots. How many voted for CUPE in Montreal?

If you do not remember, I do not blame you.

[Translation]

Mr. Pepin: Mr. Chairman, I am sorry, I am ready to reply to all questions but it is not the CBC act that we are dealing with.

Mr. Boulanger: I was about to raise a point of order in this regard.

• 1745

Mr. Pepin: It does not matter, I am willing to answer!

[English]

Mr. Boulanger: I wish to raise a point of order on Mr. Lewis' question. After all, the only figure he gave was that there were 266 who attended to vote. For the rest, he made some argument and tried to explain, but I am sure that he cannot give you the figures for every vote. I think you are going too far with your question.

Mr. Lewis: So you may think; but you asked the question about the votes, not I. Mr. Pepin looks to me to be very, very capable of answering, and, if he does not know, of saying so. I do not blame him. You do not have to be so "touchy" about it.

He gave votes in Montreal, Toronto, Vancouver and Halifax. It seemed to me not improper that I should ask that the information be completed, if Mr. Pepin has the information. If he has not, that is fine. It is in the records of the Canada Labour Relations Board anyway.

[Translation]

Mr. Pepin: I think it would be preferable, since I am afraid I might be mistaken in some of the results, that you get your sources elsewhere.

Mr. Lewis: Yes, Mr. MacDougall will be here and he will probably have the information.

Mr. Pepin: You can take advantage of it when he is here then.

Mr. Lewis: I will.

[English]

Tell me Mr. Pepin, concerning this bad Board by which you are so unequally treated, have there not been cases in which the CSN won over CLC affiliates, outside the railways and the CBC where you did not? Have there not been cases where you were opposed by a CLC affiliate and you won the case?

[Translation]

Mr. Pepin: Yes. And now I would like to clarify my reply, if you will allow me to do so, because I think it is important. As I understand it, the procedure of the Canada Labour Relations Board is the following: when applying for certification a new applicant goes before the CLRB realizing there is already one established union. Current procedure seems to be that even if you have a very strong majority, unless the already established union desists, a representation vote is ordered and taken between the two groups. When the result of the vote is known, the CLRB then, according to what I seem to understand of the procedure, decides to certify the one that obtained the most votes.

So we obtained certification when we opposed CLC affiliates and in these cases as in all others, there had been a representation vote and it was in fact a confirmation of the result of the vote.

[English]

Mr. Lewis: You won as the result of the vote, but it is the Board that decides whether there should be a vote or not.

Mr. Pepin: Yes.

Mr. Lewis: In the first place, therefore, you have to win from the Board a decision that your application is in order, that the bargaining unit is in order and that the majority you claim is in order. You have to obtain from the Board the right to have the vote, so that the decision is not merely a decision of the vote; in the first place it is a decision of the Board. Is that not right?

[Translation]

Mr. Pepin: If I understand your statement correctly, the board first of all has to decide whether we are a bona fide union and secondly, whether we have a majority of those who are applying and thirdly the board also has to see whether we are an appropriate bargaining unit. In the event that we are seeking to represent employees in an already certified unit, there is no problem. Then, we are not cynical to a very great extent. A vote is called and the result of the vote is usually confirmed by the board. I say usually, not always. I do not want my terms to be misinterpreted. The board itself makes the decision. Here you are perfectly correct. The board itself decides but it decides according to certain facts, including the result of the vote.

• 1750

[English]

Mr. Lewis: All I am trying to establish, Mr. Pepin, is that the CSN or the CNTU has had fair treatment from the Board in many cases when you appeared before it.

[Translation]

Mr. Pepin: Well, now listen. I am ready to argue the point. We have had fair treatment, Mr. Lewis, and we should not raise our voice. We have received fair treatment when there was no problem of principle involved. When we or one of our affiliates were trying to dislodge one that was already established there, and trying to obtain the same bargaining unit there was no problem. Frequently, however, I think it was proved before your Committee, the CNTU did have applications for certification which were accepted by the board. What we are complaining about is the cases where there were questions of principle involved, such as the national bargaining unit and if you will allow me just a few words in this regard, I would like to say that as far as we are concerned, it is not an isolated case. It is not because we were dissatisfied with one decision that we are before you at the present time. It is that we are really pleading so that workers will have the choice of changing their union if they want to.

[English]

Mr. Lewis: Mr. Pepin you keep saying that. I am sure if Mr. MacDonald were here he would say exactly the same thing, that he is concerned with the worker's freedom of choice, and I am sure if the Chairman of the Canada Labour Relations Board were here he would say that he is concerned with the worker's freedom of choice as much as Mr. Pepin is. I am sure you are not trying to tell us that you are the only president of a labour organization or that the CNTU is the only labour organization in Canada that is really concerned with the freedom of choice by workers. You are not trying to tell me that?

[Translation]

Mr. Pepin: I can tell you, according to what I understood, that even if we agree with the CLC on the same words, we do not agree on the same means. I am not saying that we have the monopoly on purity and virginity. I do not know, maybe others are still virgins, but what I want to tell you at the present time is that the CLC seem to be fighting

constantly against Bill No. C-186 which we believe to be an instrument to ensure the freedom of the workers.

We might be wrong, of course, but you might be wrong too. That is true, but I think that we have more chance when at least the board is not loaded with three representatives of one organization and one representative from another organization.

[English]

Mr. Lewis: May I come back to that in a moment? All I am anxious to establish now—if I can by agreement with you, and if not, I cannot and that is it—is the fact that, except when you have come up against national bargaining units which the Canada Labour Relations Board has determined wisely or unwisely are desirable in the public interest and except where you have come up against them in that sphere, you have had no difficulty with the Canada Labour Relations Board. They have not been unfair to you and they have not given you any unfair treatment. To complete my statement, I am also trying to get you to agree so that our argument or discussion can be on a proper basis that there is a genuine difference of opinion between you and some Members of Parliament who believe that national bargaining units are not necessarily desirable. Other unions and some Members of Parliament believe that national bargaining units are in the public interest and desirable. That is what we are arguing about, not the fairness or the unfairness of the Board.

[Translation]

Mr. Pepin: May I comment on this? On the first point that you raised, I think I have already replied and I will reply again in the same way with the exception of cases where there was question of principle of national bargaining units, I have no complaints to make with regard to the CLRB. I repeat it and it would be unfortunate to say things that are not in line with my thinking. With regard to your second point, perhaps in English and in French we do not understand each other in this regard, but for me it is not so much collective bargaining on a national basis that I am questioning here: it is certification-trade union recognition or the right of certain groups of workers or certain workers. Maybe I am not being understood, Mr. Lewis and Mr. Chairman, but I am trying to explain

that there is one reality which is called certification, the right to represent certain groups of workers or certain workers. There is another reality which is called *collective bargaining*. Now, as I mentioned this morning, when the auto workers negotiate, all these workers are not in a single bargaining unit. They are divided according to plants and regions and in other ways. But this means that if a group at Ste. Thérèse or elsewhere—Oshawa, for example—decides that it should change its trade union affiliation, it should be able to do so at the level of the locality or plant. That is perhaps a slight different from what I understood—perhaps I did not hear properly—and what I said.

• 1755

Mr. Lewis: No, you heard me correctly, but if you are suggesting...

[English]

... that the difference which you draw is not a realistic difference despite the fact that you call them realisms. Is it not a fact that the collective bargaining unit is the basis on which the employer is obliged by law to negotiate with the collective bargaining agent? This is the reality of labour law. If you have a collective bargaining unit in the Angus Shops and your union alone represents them, no one is under any obligation to negotiate with any union except yours with regard to the employees in the Angus Shops. However, your union may by agreement have—to use another political word—an “association” with other unions and the CPR may by agreement be ready to negotiate with all the unions, yours and the other unions, but by law they would not be obligated to negotiate with any union except yours, for the employees of Angus Shops. Is that not the reality in labour relations?

[Translation]

Mr. Pepin: I agree with you. This is the law: when we are certified for a group of employees, this involves an obligation and the obligation is that the employer has to bargain with the union which is certified and recognized. However, I would like it to be clear that this right which the employees have to choose their union is not the same in practice, when it is exercised, as in the Angus Shops, compared to as when it is exercised for the whole of the continent.

[English]

Mr. Lewis: No, the point, Mr. Pepin, may I put it to you?

[Translation]

Mr. Pepin: I think I have answered your question.

[English]

Mr. Lewis: Oh, yes. Let me put it to you another way, historically on the railways, about which I know a little. Some years ago every one of the unions in Angus Shops and all the other shops on the railways had a separate agreement and each one of them was a separate bargaining unit. The sheet metal workers were separate, the electricians were separate, and so on. But a few years ago—I cannot give you the date—it was found desirable and in the interest of both the CPR and the employees, and in my humble opinion in the public interest, to group all those unions together so that now the accredited party is not any one of those separate unions, it is Division No. 4. It is the collective bargaining agent for all the employees at Angus Shops and there is only one bargaining unit and one collective agreement. This has been a process inside the railways to unify negotiations and to bring some kind of order into the situation. You are now proposing there be a law which would encourage—I do not put it higher than that at the moment although I would argue higher than that—the Canada Labour Relations Board to reverse the process of what I humbly believe to have been progress in the negotiations on the railways. That is the point I wanted to put to you.

[Translation]

Mr. Pepin: Might I add a comment, on what is developing at the present time.

The railway union can decide what they want. At the present time, as you know, there are at least 17 groups of unions. At the Angus Shops there were 10, 12 or 8 groups, I do not remember exactly how many, but there were a few groups within the unit who decided to ask for a single certification for the employees. I think that this is their affair. The CLRB may or may not have intervened, I am not aware of the facts: All I can add is that the claim we are making is not to abolish the trade or craft unions. I would like that to be very clear. We do recognize the right of the workers to organize themselves as craft

unions, as in the case of the Angus Shops in Montreal, which as you know, were organized as craft unions, just as in the case of the railways. I do not think that the new section of the Bill will change anything in this regard. At any rate, we could continue arguing these matters—I am willing to do so. What we are trying to obtain now is this real right of workers to change their trade union affiliation and I know that Mr. MacDonald of the CLC, you, and other members of the Committee, are all ready to make statements of principle and theory. However, how do they apply in practice and in reality—this is what I am trying to show you. That is why I am trying to reply very directly to your questions.

[English]

Mr. Lewis: Mr. Pepin, I have no other question, but let me tell you that I do not accept that statement. I am as ready in reality to give the employees the right to choose their union as you are, or ever have been. I regret much more than you do the fact that there is in the labour movement now so much rivalry between unions. I think the unions could do a great deal more for Canada if they organized the unorganized and took members from each other. That is true of all unions in Canada, and I am fully aware of that. I was merely putting to you a history in respect of the railway unions, which seems to me this law would set back, and that is what I want to avoid.

• 1800

[Translation]

Mr. Pepin: With your permission, I too am in favour of organizing everyone, all the unorganized, but I also agree that the established unions should give the best and most efficient service to the workers. I also agree that the workers should have control over their organizations, so they will not be so far away from them that they cease to have any meaning, and I think we agree on this point too.

[English]

Mr. Lewis: I am not sure that I am ready to accept your statement that any union that is not with the CSN is not controlled by its members.

Mr. Pepin: Listen, I never said that.

Mr. Lewis: Well, this is what you implied in your brief.

Mr. Pepin: This is what you understood, but this is not what I said.

Mr. Lewis: No, this is what you implied.

The Chairman: I think we are now in an area which we might explore at some other time.

Mr. Lewis: I was finished anyway, Mr. Chairman. If you will permit me a word, I want to apologize to Mr. Pepin and his colleagues that I will not be able to be here this evening because I have another very important commitment. Do not think that I am not interested. I will read the minutes very carefully.

Mr. Pepin: If you will permit me, Miss Richard asked me if, when we are syndicated with IATSE, would it be fair for them to be organized with IATSE. There is some kind of union sometime, you know, Mr. Lewis, even if they are affiliated with the CLC and NDP.

The Chairman: Mr. Régimbal, how long are your questions?

Mr. Régimbal: They are very short, and they are very general in nature. I do not think the answers would be very long.

The Chairman: Maybe we could just continue if that is agreeable, and then we could avoid a night sitting.

Mr. Gray: Then Mr. Lewis would not be forced to stay up late reading the minutes of the night sitting.

Mr. Boulanger: I was going to ask you what kind of meeting you have tonight, Mr. Lewis?

The Chairman: That is a red herring.

Mr. Lewis: I have to go into the Chamber because I am interested in a certain Bill relating to the Bell Telephone.

The Chairman: Mr. Régimbal, will you proceed.

[Translation]

Mr. Régimbal: Mr. Pepin, before we are finished, with regard to Bill C-186, if it is true, as we have heard, and as you and others have said, that membership on the CLRB is on a representative basis, and if it is true too that you are asking for equal representation with the others on the board, it is then true that the employers would have the preponderant voice, under these circumstances.

Given this situation, what is your impression of Bill C-186?

Mr. Pepin: That is why we support the amendment of Bill C-186. We do not want the employers to decide on behalf of the employees. So Bill C-186 will first of all permit either the CLC or the employers to make the first decision in relation to section 4(a), and then if one of the parties contest, let us say one of our affiliates, then we will go to an appeal board, and this time it will not be loaded by representatives of the CLC and the employers, it will be completely free.

Mr. Régimbal: In other words, the existing weakness here is compensated by the appeal board. On the other hand, however, the principle of the bill is to allow this decision, or decisions of this kind, particularly in matters of conflict, to be made by those who are immediately concerned. This is the very principle of the law. In other words, those who are competent and concerned. What satisfaction can you find in the establishment of this board of appeal which represents neither one, in fact? What is your reaction? Because if it is negative, then, why have a board? All you need is an organization to represent the public good, the public interest.

• 1805

Mr. Pepin: I could answer in this way, Mr. Régimbal, and I think you will understand. In the normal course of events, the employees will vote on one side and the employers will vote on the other side. And when I say in the normal course of events, what I mean is what usually happens.

Mr. Régimbal: In the event of conflict.

Mr. Pepin: And then in this instance, the chairman really makes the decision because it becomes four against four, with a normally established board.

Since there is a schism in the labour movement—whether it is right or wrong, and it is not up to either of us to discuss this for the time being—but as there is a schism in the labour movement, and as you mentioned yourself, the employers have the power to decide, then it is no longer the chairman who will be giving the decision, but the employers who actually will be deciding.

When you establish an appeal board, you reestablish the balance that we were seeking when we composed the Canada Labour Rela-

tions Board, and we said there would be four employers and one chairman, who would split the tie. Now, at the present time, to avoid letting either the labour party or the management party decide, we say there will be an appeal board that will decide.

Mr. Régimbal: Yes, but I am wondering what you would think of another solution, such as an amendment, where in all cases of labour conflict it would be the chairman who heard the case. What do you think, do you seem to suggest that this was already being done?

Mr. Pepin: My reaction to this suggestion would not be unfavorable, Mr. Régimbal. The parties would then be there as assessors to advise the chairman each time that there was a conflict of jurisdiction, even if we had only one representative and the CLC had 14 if they wished. So long as the parties are there solely as assessors to the chairman, I would have no objections.

Mr. Régimbal: If this is true then, in that case, it would mean that you would no longer need to speak of equality of opportunity on the board. It would simplify the whole matter.

Mr. Pepin: Yes, now the formula suggested prevents me, as the officer of an organization to say "this way, I should be treated fairly under 4(a)". As I replied directly to Mr. Lewis, the problems we have had with the CLRB were not when we had a vote for and we won the vote; they were problems of certification when we wanted to change the composition of a bargaining unit.

Mr. Régimbal: The advantage of this last system is that we would avoid the delicate question of discussions or of conflicts of principle, which arose this afternoon and which will arise for months to come.

Mr. Pepin: I would encourage you to pursue this line.

Mr. Gray: Mr. Pepin, you are not contesting the right of workers associated with the QFL to affiliate with other so-called all-Canadian unions if they want to.

Mr. Pepin: Yes, I think this should be clarified because I do not think I emphasized this point sufficiently today.

Mr. Gray: I am also speaking about French speaking workers in Quebec.

Mr. Pepin: Oh, yes, we do not want to prevent French speaking workers from belonging to a bargaining unit along with the other English speaking workers, and we would never want to deny them their freedom. That is why I am again stating that we are not opposed in principle to national bargaining units. What we are proposing is that there be a real choice for the workers.

Mr. Gray: You do not deny the possibility of there being an acceptable situation in which you would find both French and English speaking workers at the same time?

Mr. Pepin: Would you repeat that question, please?

Mr. Gray: I was saying that you find nothing incorrect in having bargaining units which go from sea to sea, from coast to coast, including French and English speaking people at the same time.

Mr. Pepin: No, I am not trying to say that, and I do not intend to maintain that thesis either.

Mr. Gray: Perhaps I might be able to ask you a few questions on the practices of your own labour organization with regard to relationships with English speaking members. Are they in separate locals or units from French speaking people?

• 1810

Mr. Pepin: No, certification does not refer to French speaking or English speaking people. If there are a majority of English speaking people in a given plant, the French speaking people are in the same unit, and if there is a minority of English speaking people with regard to French speaking people, they are in the same bargaining unit, the same certified unit. What we do try to respect are the problems of relationship with members. Bilingualism, information and so on.

Mr. Gray: So within your own group you do not use the same arguments on linguistic realities that you were using here.

Mr. Pepin: I presume that you are referring to an instance where there is an English speaking minority group in Quebec, and are we going to give them special rights—if I understand your question correctly, and the object of your question. Is this what you are trying to ask?

Mr. Gray: Well, you have asked questions about linguistic realities and the realities of

Quebec and Canada which led you to try and say something special, concerning units based on linguistic and cultural factors. But obviously, within your own organization you do not use the same arguments to establish divisions or different groups.

Mr. Pepin: Nor do we, Mr. Gray, at the national level. We in Quebec do not try to represent only the French speaking employees of an organization like the CBC. When Miss Richard says that the application we made covers 20 classifications, in these 20 classifications there are employees who are English speaking. When we ask for certification for the group which is now being represented by the American Newspaper Guild and I am not saying the CIA, I say the American Newspaper Guild—in that group there are workers, newspapermen, who are English speaking, and we do not want to reduce the bargaining units by saying French speaking here, English speaking here. The only thing I am saying is that the Quebec reality includes I do not know what, 80 or 83 per cent French Canadians, and if they decide to form their own trade union, let them at least have the opportunity to do so. If they want to do otherwise, let them also have the opportunity of doing that.

Mr. Gray: Are you speaking of race or any French speaking person regardless of his origin?

Mr. Pepin: Well, I do not emphasize distinctions of this type. Let us say that I am taking it for granted that in Quebec about 80 or 83 per cent of people are of French origin. Now, whether some of this 80 per cent come from Algeria, Morocco, France or anywhere else, this is quite possible.

Mr. Gray: And they are in your union?

Mr. Pepin: They are in bargaining units. And then they are certified along with the others.

Mr. Gray: One last question. This morning, Mr. Clermont asked you something with regard to the political affiliation of the Quebec Public Service Union and you said that there is something in the Quebec law which prevents this kind of affiliation. Is that not right? Is the CNTU group officially linked with any political party?

Mr. Pepin: No political party.

Mr. Gray: So in that case you are quite different from the CLC, which has the NDP as its political counterpart.

Mr. Pepin: We are not affiliated to any political party.

Mr. Gray: You have no political counterpart like the CLC and these members of Parliament here.

Mr. Pepin: We have no link with any political party, no political group and we believe that this is the situation which should exist for us. The others are free to do what they want to. I hope there will not be too much conflict between them.

Mr. Gray: Thank you, Mr. Pepin.

[English]

The Chairman: Are there any more questions? If not, I would like to thank Mr. Pepin, Mr. Richard, Mr. Panet and Mr. Dion for being with us today.

Mr. Grégoire, do you have a question?

[Translation]

Mr. Grégoire: Mr. Chairman, I would simply like to ask this. When are we going to be sitting next? How many groups still want to present briefs and when do you anticipate that the Committee will finish sitting and return the Bill to the House?

[English]

• 1815

The Chairman: Yes, but that is a decision for the Steering Committee and they will look after it.

[Translation]

Mr. Grégoire: At the present time, have you any idea of the number of groups who wish to present briefs?

The Chairman: Not yet.

[English]

We established a deadline for the submission of briefs—February 20—and at that time we will decide how long it will take to hear the various interested parties.

[Translation]

Mr. Grégoire: Have you established any time limit for the Committee's work?

The Chairman: No.

Mr. Pepin: Would you allow me a question, Mr. Chairman? I think that the people from the CLC have undoubtedly asked to appear before you. Could I know when they are going to be heard?

[English]

The Chairman: Yes, we have scheduled the CLC for March 5.

With the exception of a few small openings we are completely booked until March 5. In any event, that is when the CLC will be presenting their brief and they will have the whole day.

[Translation]

Mr. Gray: If Mr. Pepin could convince the CLC to come in earlier, we would be very happy.

Mr. Pepin: Let them do as we did: remain available to the Committee.

[English]

The Chairman: It is a question, though, of time. Practically every day of Committee

hearings is booked between now and March 5. There is a possibility on Tuesday next, when the Railway Association of Canada will be our witness. We also may have an official from the Department of Labour which may result in there being an opening but it is rather unlikely.

[Translation]

Mr. Pepin: It is clear that the CLC do not have a clear case, if they do not come before March 5th.

Mr. Grégoire: Mr. Chairman, if the CLC is not coming until March 5, do you believe that the Bill has any chance of being returned to the House before the end of the session?

[English]

The Chairman: I am certain it has, but in any event that is a decision for the Steering Committee. Mr. Pepin, we thank you very much for being here.

Mr. Pepin: Thank you very much, sir.

The Chairman: The meeting is adjourned.

APPENDIX I

BRIEF

from

THE CONFEDERATION OF NATIONAL
TRADE UNIONS TO THE COMMITTEE ON
LABOUR AND EMPLOYMENT OF THE
HOUSE OF COMMONS OF CANADA

on

Bill C-186

February 1968

Mr. Chairman,
Members of the Committee,

I — FOREWORD

The problem we have to discuss before you today ranks among those which have drawn the CNTU into the most consistent and tenacious struggles in its history. Our fight for the recognition of natural bargaining units in labour sectors under federal jurisdiction has been inscribed in the logistics of CNTU action since its founding in 1921. The history of the CNTU in effect is the history of a union central which has never ceased trying, through 47 years, to help the workers become masters of their own destiny within labour organizations that they could effectively and collectively orient and direct, removed though they might be, in free, autonomous and sufficiently close national associations, from management tutelage as well as the constraints, more subtle but no less real, of vast union bureaucracies which moreover are frequently foreign and over which they can have little hold.

The workers within the CNTU created their trade unionism, their unions, with their own hands, and they remain masters of them. The action we have taken over the past three years to secure recognition of natural bargaining units is in line with a long series of actions, thanks to which the workers have succeeded in providing themselves with, and directing, their own instruments of defence.

II — THE ESSENTIAL FACTS

The problem of bargaining units, to which Bill C-186 offers a possible solution, may be

stated in a few simple words. Let us outline the essentials, following which you will kindly permit us to offer some comments.

The problem stems from the following facts:

1. The composition of the Canada Labour Relations Board comprises a preponderant representation from the Canadian Labour Congress among the labour members of the Board; this representation is in the ratio of 3 to 1, in other words three members from the CLO and only one from the CNTU. The Board must at times pronounce itself in cases where two centrals are opposed to each other.

2. The existing law gives no indication of possible boundaries on bargaining units; but the CLRB, in cases where the two centrals stood opposed, rejected the petitions of certain of our affiliates by declaring in substance that the units in connection with which these petitions were made, for example the Angus Shops in Montreal and the Canadian Broadcasting Corporation in Quebec, did not constitute appropriate units. By those judgments the CLRB interpreted the law of 1948—and it was its privilege to do so—but it was done in such a manner that it becomes impossible for any group of workers in a given enterprise, regardless of that group size within a given geographic area, to request a distinct accreditation; in other words, the bargaining unit has to be national in scope.

There, briefly stated, you have the facts which led to the problem that the legislator is presently pondering.

III — THE CONSEQUENCES OF THIS SITUATION

What are the consequences of the situation described in Chapter II above?

The most immediately obvious consequence, and the one that any mind the least imbued with justice in a democratic system would immediately reprove, is that the Board's present composition is such that when two rival groups appear to plead before

it, some of the "judges" who comprise the Board are already bound in some degree to one or the other of these groups; it happens that those of the "judges" who represent the union parties are already bound in a ratio of 3 to 1, and in some manner, to one of them. This already confers an inadmissible preponderance to one side over the other on a Board from which one would have to expect impartiality beyond suspicion.

It is obvious that those who, in a democratic system, tolerate such a possible cause of injustice within a court, even though it be a quasi-judicial court, do not know the first thing about either justice or democracy. It is worrisome and properly scandalous, moreover, to see certain people, self-described pure democrats, present themselves today as the advocates, the defenders, the champions of a tribunal thus oriented and inclined by its very composition. We do not believe there is any reply available to them on this point, unless they fall into the most visible hypocrisy.

The existing law has permitted the CLRB to have decisions made which have brought them radically from the spirit in which similar Boards here and there throughout North America decide on the bargaining units. This spirit is generally marked by considerable flexibility which alone can permit them to espouse the contours of the complex reality of labour relations. It is this flexibility which has generally permitted the recognition of trade unions, then so-called industrial unions, then establishment unions, then company-wide unions, all according to the type of union formations present, the stated desires of the petitioners, the "viable" character of the proposed unit, etc. Such flexibility furthermore was necessary and even inevitable, for it is not up to the power of an administrative court to force reality very much, lest it bring about resistances that we would never see the end of, and which in turn could be generators of chaos and revolt. In the traditional flexibility of labour relations boards there is elementary realism plain and simple.

So here we have the Canada Labour Relations Board which has broken with this spirit of realism and found, in short, that bargaining units should be national in scope. It must be concluded that it so decided in a manner absolute to some extent, that is without taking into account the circumstances, nor the

desire of the interested wage-earners, nor the "viability" of the unit contemplated, nor even such obvious facts as the profound administrative division of the enterprise contemplated and the special cultural character in a case such as that of Radio-Canada, where this factor is of considerable importance.

Thus, guided by an inaccurate law statement which did not tend to consider the geographic realities, the Canada Labour Relations Board has cut from its matter-of-fact spirit and decided, in short, that bargaining units would have to be national in scope. In a word, the CLRB, in this case, took the stand of no longer concerning itself with any of the significant criteria on which bodies of its kind habitually base their decisions. With matters having reached that stage, intervention by the legislator himself had become inevitable to define the criteria of appropriation for bargaining unit upon which the CLRB has to rely on.

Among the consequences of the facts mentioned in Chapter II of this brief, several are important to consider. The following paragraphs contain the observations we wish to make in this regard.

One of the consequences is that the wage-earners, wherever they may be in the country, at the federal level, would find their choice of union predetermined for them if the CLRB decision were to constitute the applicable jurisprudence, and if the CLRB were not reformed nor a better definition given to bargaining units. In effect no group, regardless of its importance in one region or another of the nation, and under no consideration whatever, could assert its right to choose any other union than the one selected by such-and-such a majority, which in many cases is concentrated particularly in such-and-such centre of the country. Any choice running counter to the prejudice of the national bargaining unit would be condemned in advance, regardless of the reasons for such a choice and even if those reasons were among those that are taken under consideration by labour boards everywhere in America.

The question then arises: In the name of what should this attitude prevail? For is not the free choice of a union by wage-earners working together in a unit that they themselves consider "viable", and which objectively is so, at the very base of our system of labour

relations? One would have to believe otherwise. One would have to believe that a body constituted like the CLRB, giving concrete interpretation to a law such as the one we now have, could bring a sort of veto against the application of this principle; a veto based on an abstract and absolute definition—an abstract and absolute definition which has never existed in laws nor in the day-to-day practice of labour relations boards generally.

It is curious to hear the reasoning offered in these matters. It is claimed, for example, that in the interests of the workers and the effectiveness of their union action, it is indispensable that bargaining units in no way and in no case be regional. The big union, bringing together the workers of a country-wide unit, is supposed to be essentially and practically superior to a less extensive union representing only a portion of the establishment's wage-earners. This argument is as superficial as it is specious. It cannot stand up to the test analysis and history. It is the theory of the superiority of the labour giant; a theory that has a distressing weakness. In reality, mammoth trade unionism is the condition essential to the emergence and maintenance of labour bureaucracy, of unionism remote from the members, of unionism through delegation of authority. It is a direct cause of the practical disinterest of members in their union, which then becomes a sort of machine where decisions are taken without the active participation of the members, who have no real control over it and soon become its helpless victims. What has been going on (or rather not going on) at the CBC the past 15 years is a striking illustration.

When the built-in defects of the labour colossus are complicated by the fact that a union spreads inordinately through a territory as vast as Canada, the harm is even greater. And finally, if we add to these causes of lack of cohesion and internal participation the sort of cultural and linguistic air-tightness that brings inevitable difficulty to relations between the people of Quebec and those of the other provinces, it becomes clear that one cannot claim to unite such distant and different elements into one organic whole.

The labour giant, which in our view is bad in most of its aspects, is even more to be feared in a country like Canada; unless trade unionism has become, in the eyes of opponents of bill C-186, a means of containing and

strangling the workers within paralysing structures, for the sole benefit of their high-ranking leaders.

The truth of the matter is that these opponents support a thesis that can have but one effect—if not one purpose: Prevent large groups of workers from escaping the constraint of organized labour bureaucracy.

The idea, if we are to lend credence to it, is that the workers shall willy-nilly continue predetermined to join this or that big union. This would become an additional precaution in the event they got the idea of breaking away from a labour grasp that could become heavy; workers who wanted nothing more to do with a given union would have to drag the whole country along in order to break away, and this despite distances, despite cultural differences, despite the compulsory minority status of the wage-earners in a given region where the contestation move began. This is no longer union security; it is imprisonment pure and simple.

In Quebec especially, the workers who have an alternative to CLC unionism, due to the existence of the CNTU, would find that their inability to benefit from it is predetermined. What organized labour monopolism wants is to prevent the play of this alternative. What labour imperialism desires is to reign supreme. As far as we are concerned, we shall not sacrifice union liberty to appetites of this kind, which are indefensible from union viewpoint or any other viewpoint, and singularly indefensible from the viewpoint of democracy.

There would be other consequences. If the unions in the federal domain are to necessarily be national in scope, it follows that they will come to the employees as more or less prefabricated associations, and under distant management. We have a different conception of things. We believe that a union must start with a foundation, rise from that foundation and, from the outset, express the active will of those who created it, who will belong to it, who will make it live intensively. This view of things is diametrically opposed to a technocratic conception. For it is evident that the democratic process of building a union and valid union activity is hardly compatible with the inherent conditions of a trade unionism that would impose the will of large majority groups on large minority groups, or that

would impose the formule of a union suffering from giant stature on the employees of a distinct establishment who wanted no part of it. We have had as an example, in Quebec, the employees of the two major transit corporations reject an enormous Canada-wide union and only fare much the better for it. These were not cases in federal jurisdiction, but from the labour viewpoint the problem to be resolved was the same. The workers resolved it through liberty; and in these cases they dissociated themselves from a huge organization. They did it by taking their own affairs into their own hands.

If the thesis of the adversaries of Bill C-186 were to prevail, there would moreover be consequences of another order. The wage-earners of Quebec, working in sectors under federal jurisdiction, would be pledged to having themselves represented by organizations both unitarian and of English-speaking majority. It is possible that in Canada there are still some people who have yet to understand the unacceptable character of this condition. There is one fact which is impossible to miss but which, for some, is difficult to explain: The people of Quebec who work in areas under federal jurisdiction may no longer, in certain cases, wish to go on being perpetual minorities in the professional defence organizations. One may or may not want to reason this out; the fact remains that it is the truth. It happens that the union reasons they have for wanting their own associations coincide, in these cases, with the language and cultural reasons they might also have to defend themselves with instruments of their own. This reality can be denied, but that won't change anything. One can discuss the advantages or disadvantages, union or otherwise, that they might have in preferring the regional or establishment unit over the national bargaining unit; but what one cannot do is deny them the right to prefer the first two, the right to choose them, to want them, to see them accredited. This is called liberty. We imagine that if the situation were reversed, that is if the workers of the other provinces necessarily had to accept unions chosen by majorities in Quebec, the present adversaries of Bill C-186 would not follow their present line of reasoning... Our thesis

is also called democratic respect for the will of the worker.

As for the rest, it will be understood that we are in no way opposed to workers freely choosing national bargaining units in preference to any other kind. We are simply opposed to their being denied the right to reject national units in cases where such rejection is founded on the concept of unit "viability" in accordance with the criteria ordinarily recognized by labour relations boards; criteria which apply throughout industry in each province, for example, without anyone having a word to say about it.

IV — THE PROPOSED REMEDIES

The draft of Bill C-186 proposes remedies for the present state of affairs. The bill's provisions do not, of course, coincide with our initial demands; far from it. Nonetheless, by providing the CLRB with an appellate body of different composition, it moves in the direction of possibly eliminating the effects of crying injustice which are inherent to the Board's makeup. Furthermore, the bill establishes that bargaining units may be other than national and, in this respect, it points out to the Board that regional or other units can exist, and that the arguments which militate in favour of them can carry a certain weight in Board decisions.

We believe that this proposed law is both reasonable and realistic. While we are not entirely satisfied with it, we find that it permits renewal of the general philosophy which ordinarily inspires similar boards pretty nearly everywhere. Only a testing of this new act will enable us to see to what extent it can correct the intolerable situation into which we had been led by the previous state of affairs. It is too early, in this respect, to give a complete judgment, for no amount of reasoning can replace experience. It is not too soon however, after all the studies occasioned by the situation involved, to anticipate happy results, and especially an appreciable cleansing of things in this domain.

THE CONFEDERATION OF
NATIONAL TRADE UNIONS

February 1968

HISTORICAL NOTES AND JURISPRUDENCE

The Canadian federal Act on industrial relations has been in force since 1948, or for about twenty years. It has undergone little change during this period. In the light of experience acquired, and with a view to more effective protection of freedom of association, the federal government, through the Department of Labour, tabled in the House of Commons at the beginning of December 1967 a draft of Bill C-186 entitled "an Act to Modify the Industrial Relations and Disputes Investigation Act".

The existing Act defines a bargaining unit as follows:

"For the purposes of this Act, a "unit" means a group of employees and "appropriate for collective bargaining" with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer."

It was the interpretation given by the CLRB to this definition, and the kind of jurisprudence that it tried to establish that brought on the precision included in Bill C-186. This precision is contained in one paragraph, which follows:

"Where the business or activities carried on by an employer are carried on by him in more than one self-contained establishment or in more than one local, regional or other distinct geographical area within Canada and an application is made by a trade union for certification under this Act as bargaining agent of a proposed unit consisting of employees of that employer in one or more but not all of those establishments or areas, the Board may, subject to this Act, determine the proposed unit to be a unit appropriate for collective bargaining."

When, in January 1966, the CLRB rejected a petition in accreditation submitted by the Syndicat général du Cinéma et de la Télévision (CNTU) and when, at the end of the same year (December 1966) it rejected a petition in accreditation from the Syndicat national des employés des usines Angus (CNTU), the Board had gone looking for the

principle of so-called national bargaining units in a decision handed down in March 1951, when it had to settle inter-union litigation between two big railway brotherhoods which have been incessant rivals, the Brotherhood of Firemen and Enginemen, and the Brotherhood of Engineers. The petitioning brotherhood was unable, in this case, to obtain the representation it sought. As for the rival brotherhood (Engineers) it had been accredited by virtue of industrial relations rules laid down under the authority of the War Measures Act in 1946, and had de facto enjoyed recognition for a number of years prior to the accreditation of 1946. The CLRB concluded that the reasons invoked by the petitioning brotherhood (Firemen) were not convincing enough to justify splitting the bargaining unit of the rival brotherhood (Engineers). It was by going back to a paragraph of this case and applying it to Radio Canada and the Angus Shops that the CLRB bulked all these cases together as identical twins, something that does not exist in industrial relations matters.

The CLRB could just as easily have referred to a decision rendered in October 1949. At that time, it granted accreditation to the Brotherhood of Railway and Steamship Clerks, permitting it to represent a group of 36 CPR employees at Windsor Station, Montreal, out of a total of 1035 in the accounting division.

Another decision, handed down in 1959 when the Board was chaired by Mr. Justice Rhodes Smith, brought out that regional units could be suitable. In this case the petition had been submitted by a local union (no. 1583) affiliated with the Canadian Labour Congress. It involved a bargaining unit of three (3) employees. These three persons worked for the Kitimat, B.C. branch of the Bank of Nova Scotia. The Canadian Labour Congress, represented at the Board hearing by legal counsel Maurice Wright and Mr. Jos. McKenzie, submitted that this was an appropriate unit. It should be noted that at the time of the hearing the CLC had only one dues-paying member among the three persons comprising the unit. Two of them had, at this date, handed in their resignations as employees of the Bank of Nova Scotia, Kitimat branch. In its decision (September 11th 1959) the CLRB summed up the arguments made on behalf of the Canadian Labour Con-

gress. More are two of the CLC arguments as reported in the Board decision:

4. The applicant local functions only in the Kitimat and Terrace areas and thus if employees are to have the right to be represented by the union of their choice, the Kitimat employees would have to be recognized as an appropriate unit.

5. It is quite normal for employees of a branch office to comprise a separate bargaining unit, even in railway operations.

The CLRB rejected the Canadian Labour Congress petition and justified its decision by explaining, among others:

"One further circumstance appears to the majority of the Board to be important in relation to the appropriateness of the proposed bargaining unit, namely, the likelihood of it being a *viable* unit. The fact that the proposed unit comprises only three (3) employees (or four if the chief clerk were to be included) in one small isolated branch of a Bank which has thousands of similar employees in over 500 branches, that the branch does not control changes in its staff personnel, that there is a rapid turnover in the staff of the branch, in large measure as a result of transfers under the Bank's uniform integrated policy, make the proposed unit, in our opinion, inappropriate for collective bargaining. These facts also indicate that it is most unlikely that such a unit would have any real prospect of functioning effectively."

The CLRB took advantage of the opportunity to make some remarks about so-called national bargaining units (eight years after the decision rendered in the Firemen-Engineers dispute) and here is the essence of those remarks:

"The Board points to the facts that this is the first application with which it has had to deal, concerning bank employees, and that employees of Canadian banks have hitherto not been organized by trade unions for collective bargaining. The Industrial Relations and Disputes Investigation Act applies to banks and their employees, with the purpose of giving effect to the intent of the Act. *It may well be that units of some of the employees of a Bank, grouped together territorially or on some other basis, will prove to be appropriate rather than a nation-wide unit.*"

THE IATSE—RADIO-CANADA— SGCT (CNTU) AFFAIR

1. The Canadian Broadcasting Corporation early in September 1952 inaugurated its first two television stations in Canada; the first in Montreal and the second in Toronto. These two cities also are two centres of television program production. A few months later an American union, the INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES AND MOVING PICTURE MACHINE OPERATORS OF THE UNITED STATES AND CANADA (IATSE) recruited among Radio Canada employees, in about twenty-five occupations, sufficient members and formed two distinct union sections, one in Montreal and the other in Toronto. The Montreal section was known by the name "Local 878" and the Toronto section by the name "Local 880".

2. IATSE, in the name of the two sections and their members, applied for accreditation and received it from the CLRB in August 1953. Each union section of IATSE could have been accredited separately, instead of IATSE itself, without any opposition. This procedure is frequently used before the CLRB. In fact, since 1948 and even today, the CLRB accredits a union section (local) as readily as the union itself. In the case with which we are concerned, the accreditation was granted, as requested, to the IATSE, which was the majority union at the moment.

3. Subsequently, IATSE, without any new accreditation and without the original accreditation of 1953 being changed, obtained from the CBC collective agreements extending, on the one hand, its professional jurisdiction to some twenty-five new occupations and trade ($25 + 25 = 50$) and, on the other hand, extending its territorial jurisdiction to nine other towns apart from Montreal and Toronto. These localities were Vancouver, Edmonton, Winnipeg, Ottawa, Quebec, Halifax, Moncton, St. John's (Nfld.) and Cornerbrook. A Rand Formula of union security guaranteed IATSE the payment of union dues from all employees within the bargaining unit, whether or not they were members of the American union. The CNTU has no thought of contending that the Rand Formula should be struck from the list of union security measures, but in 1964 several hundred employees of Radio Canada in a relatively restricted bargaining unit were paying union dues to the IATSE

without being members of that organization. All we want to do is bring out the fact. Under those conditions, IATSE could not have the necessary vigour to negotiate satisfactory collective agreements. It can be readily understood then that IATSE and Radio Canada became allies and reached out, thick as thieves, to protect, under the tutelary wing of the CLRB, this so-called national bargaining unit. The other American unions have signed contracts with Radio Canada (NABET, ARTEC and ANG...or perhaps it should be ANG-CIA) went to the aid of IATSE before the CLRB by invoking the importance of harmonious relations and industrial stability...in Canada.

4. By 1957, only four years after the accreditation of IATSE, a deep-seated uneasiness already prevailed among the employees of Radio Canada, to the point that a large number of them in Montreal and Toronto petitioned the CLRB to revoke the certificate of union recognition issued to IATSE in 1953. Those who signed the petition obtained a vote by secret ballot. When the vote was over, the IATSE accreditation was maintained, but a good many employees are convinced that the Canadian Broadcasting Corporation supported the IATSE on that occasion. They even told the Montreal daily *Le Devoir* (II-8-66) that IATSE held on thanks to "veiled threats made to the employees by management".

5. Following this setback, the Radio Canada employees tried to improve the situation within the framework of IATSE. They were unable to get satisfaction. On the contrary. The IATSE executive, through its international representative in Canada, Hugh Sedgwick, displayed particular arrogance towards its French-speaking members in Quebec. On June 4th 1964 the Montreal section (Local 878) of IATSE took the initiative of submitting a petition to the CLRB aimed at obtaining a separate accreditation and negotiating a separate collective labour agreement. The palaver went on incessantly for months, providing the CLRB with an excuse for declining to set a date for hearing of the petition. Then, due especially to the intervention of the president of the Canadian Labour Congress, Mr. Claude Jodoin (who said he feared the CNTU had gotten into the act), and following a disheartening notice served on the representatives of "Local 878" by the one-time executive official of the CLRB, Mr. Ber-

nard Wilson, the petitioners (Local 878) wearily decided in March 1964 (ten months later) to withdraw their petition.

6. During this same period, employees of Radio Canada at Montreal requested the assistance of the CNTU to organize a union that would be affiliated with the central and whose jurisdiction would extend to all occupations and trades for the IATSE unit in Quebec. The new union was founded on June 25th 1964. In October 1964, because of its progress, the union assumed new structures. It formed sections, including the Radio Canada section and the National Film Board section, and took the name *Syndicat général du cinéma et de la télévision* (CNTU), a name it has since retained. The union was in a position to submit a first petition in accreditation to the CLRB by November 1965. We shall return to this accreditation in a few moments. Other facts must first be recalled in order to avoid upsetting the chronology of events.

7. The petition in accreditation submitted to the CLRB on June 4th 1964 by the section (Local 878) of IATSE was withdrawn in March 1965. Following its withdrawal, the leaders of the IATSE sections in Montreal and Toronto (Locals 878 and 880) acted in concert with a view to speedily founding another union with "coast-to-coast" jurisdiction. The new (independent) union was founded in May 1965 under the name *Syndicat canadien de la Télévision* (Canadian Television Union). It claimed to have the support of the Canadian Labour Congress, an assertion that was not officially confirmed. Shortly after the founding of this union, a referendum was held in Montreal and Toronto, with the co-operation of the two IATSE sections concerned. As a first question, the employees represented by IATSE were asked if they favoured steps aimed at getting the IATSE accreditation revoked. The results of the referendum, as far as this question was concerned, were eloquent and revealed a strong desire on the part of the employees to rid themselves of IATSE. At Montreal, 475 employees wanted the IATSE certificate revoked, and only 33 wanted it maintained. In Toronto, 345 voted for revocation of the certificate, and only 35 were for its maintenance. These figures were furnished by the new union at a hearing before the CLRB in November 1965.

8. The Canadian Television Union (independent) presented a petition in accredita-

tion to the CLRB in August 1965 with the aim of replacing IATSE through-out the country. Unfortunately for the CTU, it was unable to prove to the Board that it was a union within the meaning of the law. Too many equivocations surrounded its formation. The petition was rejected following a hearing in November 1965. IATSE continued to retain accreditation, against the will of the majority of employees. Since the CLRB was aware of the results of the referendum mentioned in the preceding paragraph, the CNTU believes that the CLRB should have proceeded with the revocation of the IATSE union certificate by virtue of powers conferred on it by Article Eleven (11) of the Act. This would have cleared the field and the employees would have been able to freely exercise their choice.

9. Early in November 1965, another petition was before the CLRB. This one was from the Syndicat général du Cinéma et de la Télévision (CNTU). It asked to be accredited as representative of the Radio Canada employees grouped in the Quebec section (Local 878) of IATSE, for the same occupations and trades. This bargaining unit included 664 employees of whom 382 (57.5 per cent) were dues-paying members of the union at the time of the petition. These figures were verified and confirmed by the CLRB. This is the point of departure for the continuing argument over so-called national bargaining units. It touched off a veritable uprising against the CNTU and the petitioning SGCT. The union petition was rejected in January 1966, following a hearing held in mid-December 1965.

10. A few months later, in June 1966, the CLRB was seized with a new petition in accreditation, this time from the Canadian Union of Public Employees (CUPE), affiliated, like IATSE, with the Canadian Labour Congress. This union had about 800 employees of the IATSE unit among its members. The CLRB, as is the custom in such circumstances, ordered a secret ballot among the employees concerned, proposing a choice between IATSE and CUPE. The vote was held at the end of November 1966. Because of failure to win a majority the CUPE petition was dismissed. But IATSE obtained a derisive number of votes. The bargaining unit, at the time of the ballot, comprised 1668 employees of Radio Canada, of whom 439 only voted for IATSE. The result of the ballot is even more revealing as to the feeble position of IATSE if the voting at Montreal and Toronto is extracted. Of the total 1668 employees, 701 had voting rights at Montreal

and 574 at Toronto. IATSE won only 78 votes in Montreal and 53 in Toronto.

11. On January 25th 1967, the Syndicat général du Cinéma et de la Télévision (CNTU), as was its right, submitted another petition to the CLRB. At the time of this second petition in accreditation, there were 746 employees of Radio Canada in the bargaining unit (instead of the 664 in November 1965) and the CNTU union had 419 as dues-paying members (instead of 382 in November 1965). Moreover, some fifteen new members had signed their membership cards following the date of the new petition. Without taking these new members into account, the union therefore represented at the moment 56.2 per cent of the employees in the unit, compared with 57.5 per cent in November 1965. There was a hearing before the Board on May 9th 1967. The CLRB rejected this new petition on July 21st 1967, again on the pretext that a national unit should not be split up. IATSE, an empty shell of a union, continued to hold the accreditation. Following is the key paragraph of the decision; a paragraph that makes for laborious reading in English, and worse in French:

"the decision has been made that (a) the Board affirms that, in dealing with an application for certification embodying a proposal which involves the fragmentation of an existing system-wide bargaining unit, the Board asks that convincing grounds be put forward in support thereof, and points out that in the proceedings in the present application, while new evidence has been brought forward to indicate changed circumstances since the time of the prior application by this applicant, the Board is of opinion that this new evidence is not at this time sufficiently decisive to warrant the fragmentation of the existing system-wide unit in the present circumstances. . ."

12. The CLRB decided to take action during the last months of 1967, and ordered a secret ballot, by mail, to decide whether the interested employees were for or against the revocation of the IATSE accreditation. The vote, taken when the bargaining unit comprised 1704 members, produced only 83 ballots in favour of maintaining the IATSE certificate, and 1166 for its revocation. All the members did not vote on this occasion. On January 22nd 1968, the CLRB finally decided to cancel the IATSE certificate. There are presently

other petitions in accreditation before the CLRB, and the CNTU trusts that the Board will abstain from taking a decision while Bill C-186 is before your Committee; that is, before the Canadian Parliament.

OTHER MATTERS

Bill C-186 not only gives a precise definition of what bargaining units are. It also is explicit about the powers of the Canada Labour Relations Board. It modifies the structure of the Board, adds a vice-chairman, pro-

vides for appeal proceedings, allows the Board to sit in sections when the circumstances so justify, authorizes it to hold hearings anywhere in Canada, and lays down certain modalities for implementing proposed reforms. The CNTU readily agrees to the proposals being given a trial, and approves the Act.

The CNTU trusts however that the argument about C-186 will not go on eternally, and it would appreciate its adoption with the greatest possible diligence.

HOUSE OF COMMONS
Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE
ON
Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 5

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

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MAR 21 1968

TUESDAY, FEBRUARY 20, 1968

UNIVERSITY OF TORONTO

WITNESSES:

From the Canadian Pacific Railway Company: Mr. D. I. McNeill, Q.C., Vice-President, Personnel, and Mr. J. C. Anderson, Assistant to the Vice-President, Personnel; *from the Canadian National Railways:* Mr. W. T. Wilson, Vice-President, Personnel and Labour Relations, and Mr. E. K. House, Assistant Vice-President, Labour Relations; Mr. R. E. Wilkes, Executive Secretary, *The Railway Association of Canada.*

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,
Mr. Boulanger,
Mr. Clermont,
Mr. Duquet,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Lewis,

Mr. MacInnis (*Cape
Breton South*),
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,
Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Munro,

Mr. Nielsen,
Mr. Ormiston,
Mr. Patterson,
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
¹Mr. Stafford—(24).

Michael A. Measures,
Clerk of the Committee.

¹Replaced Mr. Allmand on February 19, 1968.

ORDERS OF REFERENCE

FRIDAY, February 16, 1968.

Ordered,—That the names of Messrs. Boulanger and Stafford be substituted for those of Messrs. Allmand and Mackasey on the Standing Committee on Labour and Employment.

(Rescinded by the House, February 19, 1968.)

MONDAY, February 19, 1968.

Ordered,—That the name of Mr. Stafford be substituted for that of Mr. Allmand on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

TUESDAY, February 20, 1968.

(8)

The Standing Committee on Labour and Employment met this day at 11:13 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, McCleave, McKinley, McNulty, Munro, Reid—(15).

Also present: The Honourable Bryce Mackasey, M.P.

In attendance: From the Canadian Pacific Railway Company: Mr. D. I. McNeill, Q.C., Vice-President, Personnel, and Mr. J. C. Anderson, Assistant to the Vice-President, Personnel; from the Canadian National Railways: Mr. W. T. Wilson, Vice-President, Personnel and Labour Relations, and Mr. E. K. House, Assistant Vice-President, Labour Relations; Mr. P. W. Hankinson, Vice-President and General Manager of the Toronto, Hamilton and Buffalo Railway Company; Mr. R. E. Wilkes, Executive Secretary, The Railway Association of Canada.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced those in attendance, all representing The Railway Association of Canada.

Mr. Wilkes gave an oral summary of the Association's written brief, copies of which had been distributed to the members. (*Note: The brief is printed as Appendix II at the end of this issue.*)

Representatives of the Association were questioned and upon completion of the questioning, the Chairman thanked them for their attendance.

At 1:05 p.m., the Committee adjourned to 3:30 p.m., Wednesday, February 21, 1968.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday, February 20, 1968

The Chairman: Gentlemen, I see a quorum.

An hon. Member: Mr. Chairman, before you start has anyone inquired of the official opposition...

The Chairman: No, we have not made any formal inquiries although we may have drawn some personal conclusions. But we have a quorum and I do not think it is necessary that the quorum be made up of members of all parties; it is entirely up to them whether they participate in the Committee hearings today or not.

We have with us today members of The Railway Association of Canada. First of all let me introduce Mr. R. E. Wilkes, the Executive Secretary...

Mr. Lewis: Mr. Chairman, before we go on there is an afternoon meeting scheduled. I have no objection to the meeting this morning; this is a committee of Parliament and Parliament was adjourned last night to meet again at 2.30 this afternoon, but I might have some objection to a meeting this afternoon, depending on what happens.

• 1115

The Chairman: We will meet unless something happens that would militate against meeting. I mean there is no reason to presume...

Mr. Gray: Mr. Chairman, who are our witnesses for this afternoon?

The Chairman: We have The Railway Association with us this morning. If necessary we will continue with these gentlemen this afternoon if we do not complete the cross-examination this morning. In the event that we complete it this morning or early this afternoon there is a possibility, which I had hoped would have been confirmed but which has not been, that we will continue the discussion with some members of the Department of Labour. But I am not at all insistent upon

that because it has not been arranged and therefore I am not in a position really to press for it.

Unless something does happen this afternoon that clearly constitutionally militates against the meeting of this Committee we will proceed, but I think we should wait for that eventuality. I do not want to get into an argument.

Mr. Gray: Mr. Chairman, the question may solve itself if the members of the Committee feel they have no further questions for our witnesses at the usual adjournment time.

The Chairman: That is right.

Mr. Gray: Then the problem that Mr. Lewis has quite properly brought to our attention will not exist.

Mr. Lewis: That is why I am not pursuing it at the moment.

The Chairman: All right; we will not delay any further. I will just read the list of gentlemen who are witnesses before the Committee today.

Mr. D. I. McNeill, Q. C. who is the Vice-President, Personnel, of the Canadian Pacific Railway Company.

Mr. W. T. Wilson, Vice-President, Personnel and Labour Relations, Canadian National Railways.

Mr. P. W. Hankinson, Vice-President and General Manager, Toronto, Hamilton and Buffalo Railway Company.

Mr. J. C. Anderson, Assistant to the Vice-President, Personnel, Canadian Pacific Railway Company.

To present the oral summary of the brief on my immediate right is Mr. R. E. Wilkes, Executive Secretary, The Railway Association of Canada. Also with us is Mr. E. K. House, Assistant Vice-President, Labour Relations, Canadian National Railways.

Now I will ask Mr. Wilkes to give the Committee the benefit of the oral summary.

Mr. R. E. Wilkes (Executive Secretary, The Railway Association of Canada):

As requested in the Chairman's letter to us of February 6, I propose to summarize briefly the written submission which has been in the hands of the Committee for some time.

It is the submission of the Railway Association of Canada:

That the legislation contained in Bill C-186 will permit, and indeed invite, decisions that will fragment existing national bargaining units into local, regional or other geographic areas,

that the introduction of such procedures effectively will destroy rational collective bargaining and bring confusion and dissension into labour management relations in this industry, with consequent immeasurable hardship on the public at large and, in fact, the employees themselves,

that if regional bargaining units are carved out of the existing national units in the railways with representation by numerous unions, the public will be exposed to a multiplicity of railway strikes,

that there is no critical need for the changes proposed in Bill C-186,

that assuming there was some justification for a change, it is premature to deal with it before the report of the Prime Minister's Task Force appointed to examine industrial relations in Canada, has been filed and made public,

that efforts should be directed to finding ways and means to reduce such work stoppages in industries or groups whose services are essential to ordinary public life and not to the enactment of legislation that clearly would have the opposite effect. The fragmentation of bargaining units will encourage union rivalry with its inevitable adverse effects upon employers and the general public,

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that the proposals of Bill C-186 would create situations opposite to those recommended by the Economic Council of Canada in its Declaration of Manpower Adjustment to Technological and Other Change, which appears on pages 6 and 7 of the RAC brief,

that the proposed legislation would curtail or eliminate many advantages now enjoyed by railway employees,

that the members of the Railway Association do not favour any one union over another so long as integral groups of employees are not fragmented into multi-union representation,

that the appeal system contemplated by Bill C-186 would reduce the Board itself to little more than an instrument of recommendation and lead to countless delays in deciding certification cases.

As has been explained, if there are any questions that you, sir, or the members of your Committee wish to ask, we will be glad to endeavour to answer them, and for this purpose we have assembled the gentlemen to whom already you have been introduced.

The Chairman: Thank you, Mr. Wilkes. That is almost a model summary of clarity and brevity, which are two things we hope for in these summaries.

Now, gentlemen, these men are prepared to answer questions. Mr. Gray?

Mr. Émard: On a point of order. Before we start, in future would it be possible to have a list of those persons who come here as representatives of the different bodies? It is rather difficult for us to remember their names when there are several.

The Chairman: When there is a panel we will try to get their names, have them printed and leave them on the tables in the Committee room. Of course, you are then faced with the problem of relating the name to the face, so you are only half way home.

I have Mr. Gray on my list and I ask him now to proceed.

Mr. Gray: Mr. Wilkes, could you tell the Committee the structure of collective bargaining on the railways at the present time? I am sure most of us know the answer, but I think for the record we should have this expressed. Do the railways deal with only one union covering all the various crafts and trades? Just what happens?

Mr. W. T. Wilson (Vice-President, Personnel and Labour Relations, Canadian National Railways): Perhaps I could answer that, Mr. Chairman. Actually in Canadian National we deal with 37 unions.

Mr. Gray: Thirty seven unions?

Mr. Wilson: And we have 159 agreements.

Mr. Gray: And you have 159 agreements?

Mr. Wilson: Of course, that covers such diverse activities as hotels, steamships, ferries, trucking and so on. What we call a non-operating group of employees embraces clerks, stenographers, accounting people, truck drivers, express porters, mechanics in the shops, machinists, electricians, carpenters, pipe fitters, plumbers, molders, maintenance of way forces out on the line and so on, and for many, many years those unions joined together in a concerted movement and submitted their demands collectively and then bargained as a group.

The running trades, that is to say, the locomotive engineers, negotiate separately. The Brotherhood of Railroad Trainmen, which covers trainmen, conductors, yardmen and hostlers, negotiate separately. The Brotherhood of Locomotive Firemen and Enginemen negotiate separately. In the last round of negotiations, which unfortunately culminated in a strike as you will recall one which was ended by an act of Parliament, we went on to mediation under the guidance of Mr. Carl Goldenberg.

In those negotiations there was a change in the pattern in that one of the large Canadian unions, the CBRT and GW, that is, the Canadian Brotherhood of Railway Transport and General Workers, split away from the non-ops group and the shop crafts which comprised, I think, seven unions—these are the machinists, electricians, pipe fitters, carmen and so on—negotiated as a group, and the residual non-ops, that is, the remainder of the non-ops with the shop crafts, split out and the CBRT and GW split out.

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The remaining unions representing the carmen, the maintenance-of-way employees, and so on, continued to negotiate as the non-ops—not the carmen, I mean the Telecommunications Employees Union, TCU, the Commercial Telegraphers Union, the Brotherhood of Railway, Airline and Steamship Clerks and so on, so that we actually had four groups in those negotiations.

The trainmen, the residual non-ops, the CBRT and GW and the shop crafts were separate and they were negotiating for their people on a national basis from coast to coast. All the shop crafts employees represented by those shop craft unions were in this group, wherever they might be located from St. John's, Newfoundland to the West Coast.

The same thing applies to the non-ops, the trainmen and the CBRT and GW. It is a complex set-up, as you can see.

Mr. Gray: So, looking at the CNR it is obvious that you are not negotiating with just one union covering all the crafts and trades covering your whole system.

Mr. Wilson: Perhaps I should have mentioned that the remarks I made apply equally to the CPR.

Mr. Gray: Yes. And while it is true that the various unions representing various trades and crafts are more or less system-wide, they are split along trade, craft or occupational lines.

Mr. Wilson: That is right.

Mr. Lewis: I have a question that might be helpful at this point. Do you have separate agreements with each of the crafts, or do you have an agreement with an organization that includes all the crafts?

Mr. Wilson: For the purpose of clarity perhaps I should say that when negotiations are concluded we sign a master agreement with all of these unions and then as you know the changes that have been negotiated are incorporated in the individual agreements with each of the crafts. There is only one agreement in the shops. I have been talking about the non-ops, but in the shops—

Mr. Lewis: I am talking about the shop crafts. There are seven unions in the shops.

Mr. Wilson: Perhaps I could clarify that, Mr. Chairman, if I may. The shop craft unions have one agreement covering what is called Division 4, Railway Employees Department AFL-CIO which embraces all these craft unions in the shops. It is a single agreement between The Railway Association of Canada and Division 4 and it covers all the railways.

Mr. Gray: Is there one certificate from the CLRB?

Mr. Wilson: I think so.

Mr. Gray: We can check that.

Mr. Wilson: It has been done that way for many, many years.

Mr. Gray: But so far as the negotiations themselves are concerned, the fact that the shop crafts and the other groups sit down at the table as one entity to bargain with the

railways is a matter of voluntary agreement between these various union groups. There is nothing that you can point to in the Industrial Relations and Disputes Investigation Act or a decision of the Canada Labour Relations Board that compels the groups to negotiate with you as an entity whether they like it or not. In fact, you have already told us that in the last negotiation the CBRT split off from the body.

Mr. Wilson: They are not in the shop crafts.

Mr. Gray: No, I realize that. I am talking not just about shop crafts; I am talking about the whole entity of trades, crafts and occupational groups into which the employees of the railways fall. You will not disagree with me when I suggest the fact that in the past they have been negotiating with you as one entity on behalf of all the workers is a matter of voluntary agreement amongst themselves.

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Mr. Wilson: Well, the CBRT and GW represents upwards of 20,000 CN employees and practically no CP employees. The counterparts of the employees represented on CN by the CBRT and GW are represented by the Brotherhood of Railway, Airline and Steamship Clerks on the CP and they were in the non-ops group. The CBRT and GW split off. Nevertheless, they are a national union. They do not represent a group in Ontario, or in British Columbia, or in Manitoba; they represent employees from Newfoundland to the West Coast.

Mr. Gray: Quite so; but as between various occupations there is a division of union representation. You have told us that there are the non-operating groups and the operating groups, and so on.

Mr. Wilson: In other words, it is not one big union such as the UAW.

Mr. Gray: Yes. Is it not obvious that if the non-operating unions agreed with the Railway Association of Canada on a new contract and the operating unions did not the railways could not operate?

Mr. Wilson: That is possible; yes.

Mr. Gray: There is nothing in the existing law to prevent that very unfortunate possibility occurring in future negotiations?

Mr. Wilson: That is right.

It does not happen that way, actually.

Mr. Gray: No; and I hope it never does.

Mr. Wilson: We have had only two strikes in the last 18 years...

Mr. Gray: I hope it never does. What I am trying to establish is that even under the existing pattern of bargaining there is a fragmentation, not so much on geographical or shop or individual plant lines, but on craft and occupational lines, and that there is nothing in the existing law under which collective bargaining takes place that forces these people, as one body either to negotiate or to agree with you.

Mr. D. I. McNeill (Vice-President, Personnel, Canadian Pacific Railway Company): Perhaps I could just add something from the standpoint of our experience and philosophy, Mr. Gray.

In our major groups, as Mr. Wilson has explained, you have the shop crafts who are under one agreement on a national basis; and you have the other unions which have their own agreements but are on a national basis. Up until the last negotiations we negotiated with them on a broader basis, where there was certainly a breaking up not from one agreement group but from one negotiating group to three.

I make the point that it is because we realized the dangers that were inherent in that that we are so concerned about legislation that will encourage even more breaking up, and into smaller units, and coming closer to what I call fragmentation of bargaining groups.

Mr. Gray: I will defer that question. Can you point to anything in the existing Industrial Relations and Disputes Investigation Act which prevents the Canada Labour Relations Board certifying a unit for collective bargaining on any basis it wants?

Mr. McNeill: I agree that they have the power now. It is for that very reason that I say that, to my mind, the Bill, certainly as it is framed at the moment, constitutes a direction to that Board to change its policy.

Mr. Gray: Can you expand on why consider it a direction? Does it say that the Board must certify a unit on a regional or one-plant basis?

Mr. McNeill: It does not say it must, but if the amendment is not required from the standpoint of conferring additional, or new, powers on the Board, then in my opinion it is

bad legislation in that if it is passed in its present form it must be subject to some interpretation.

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My personal concern, and that of our company, is that that is bound to be considered by unions, possibly by members of the Board and by employers as an implied direction that this is the policy they should adopt.

Mr. Gray: But surely the only direction is that this factor must be considered by the Board; that is, if there is a direction, that the suitability of a one-shop or regional unit has to be examined. Surely the direction, if there be one, extends no further than that?

Mr. McNeill: That is a factor under the existing Act. In my mind, the squirrel cage that we get into is that unless there is some purpose in this legislation why is it being proposed? If it adds nothing to their powers then it must at least add something to their philosophy, or is an indication of what path it is intended they should follow.

Mr. Gray: Surely the answer is that it is for the purpose of clarifying in the minds of all concerned the exact extent of the existing powers of the Board?

Mr. McNeill: I have not heard of any confusion about their powers that required clarification.

Mr. Gray: In the proposed amendments can you point to any penalty on the Board if they do not certify a unit which is on a local or regional basis?

Mr. McNeill: From a purely legal standpoint I accept the statement you have made. However, granting the truth of that, then I ask the question, if I am permitted, why the legislation?

Mr. Gray: I think the answer is simple. It is to make clear, especially to members of the public who are concerned, that if the Board feels, on the merits of the case, that this type of certification is desirable it can do so. I feel that this is more to reassure the public than the Board. As you are aware, we have heard evidence that the Board has, in fact, certified units on a regional basis, including units which, when certified, would have the effect of fragmenting system-wide bargaining. They have done so in several cases. In your own Angus Shops case they said that they would be willing to do this if the circumstances were shown to them.

Mr. McNeill: If that is the purpose of it. I have difficulty in understanding what reassurance the public would receive from it. If, following the passage of this legislation, there was an application for certification of the kind made for Angus Shops recently and the decision of the Board was the same as the one they made under the present legislation I cannot see that the public has received any reassurance.

Mr. Gray: Would not the answer be that there would be no question that the application had been considered on its merits; and that there would not be even any hint, or suggestion—even though you and I would not agree with it—that the Board had been “rigged”, even inadvertently, in favour of one side or the other?

Mr. McNeill: Then you ask me to accept the principle that tribunals, probably of any kind, whether they be quasi-judicial or judicial, must constantly be vulnerable to legislation which suggests that they have not adopted the proper approach to questions that come before them for decision.

Mr. Gray: I will turn the floor over to someone else.

However, you cannot fail to agree with me that if the Board failed to certify a one-shop or regional unit the Royal Canadian Mounted Police would not march in and lock them up. They would continue as before.

Mr. Énard: Sir, would you explain the Railway Association of Canada and tell us its purpose?

Mr. McNeill: As Executive Secretary of the Association perhaps Mr. Wilkes could do that more effectively.

Mr. Wilkes: As a little history, the Railway Association was born out of an organization established during the First World War. About 1917, the railways in Canada, unlike those in the United States and the UK, voluntarily banded together to co-ordinate the movement of men and material for the war effort. In the UK and in the United States the government took over the railroads to do that.

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When the war was over the members of this railway war board were appraising the effort and decided there was benefit to be

derived from this collaboration on competitive matters. As a result, the last meeting of the Canadian railway war board turned out to be the first meeting of the Railway Association of Canada. It was incorporated in 1953, although it had annual meetings and functioned continuously since 1919 as The Railway Association of Canada. Its general purposes are the promotion of the interests of the railways of Canada. In a nutshell really that is the function of The Railway Association. I realize that covers a lot of ground but it is an actual quotation from the by-laws.

Mr. Émard: When the unions are bargaining for a contract with a railway, do they bargain with The Railway Association?

Mr. Wilkes: The negotiators on the employer's side of the table are representatives of The Railway Association.

Mr. Émard: Could one union bargain with one railway company that is a member of your Association? Could they have a collective agreement separate from the general collective agreement that is agreed by The Railway Association?

Mr. Wilkes: I know of no reason why they could not.

Mr. McNeill: That is just a little misunderstanding, Mr. Emard. We have various forms of relationship via the route of collective agreements with our unions. For example, the maintenance-of-way employees on all railways are covered by a collective agreement made with The Railway Association of Canada. The shop craft employees on all railways, which are the six crafts that Mr. Wilkes referred to, are under one agreement made with The Railway Association of Canada.

Other classes of employees on the railway such as the clerks, the signalmen, the telegraphers, the communications men, the running trades groups like the engineers, the firemen, the trainmen, the porters, work under collective agreements negotiated by each union with each of the railways on which they happen to be working.

In other words, the locomotive engineers have a collective agreement with the Canadian Pacific Railway covering locomotive engineers of the Canadian Pacific Railway; they have another agreement with the Canadian National covering locomotive engineers on the Canadian National.

I am trying to explain that there is no general answer to your question. Conditions might be different depending on which group or class of employees we are speaking of.

Mr. Émard: I notice on the last page that you refer to Members of The Railway Association and Associate Members. What is the difference between a Member and an Associate Member of your Association?

Mr. Wilkes: Basically an Associate Member is one with less than 50 miles of mainland track. They belong to The Railway Association and are provided with information and particulars of meetings that take place. It is a source of information for them. They do not really take an active part in the day-to-day decisions of The Railway Association. They do not have the same status as a member who can vote at meetings, and so on.

Mr. Émard: I have just one more question. I was told that the Brotherhood of Railway Running Trades have a dual membership because apparently they have a union they have chosen which was not recognized so they have to hold union cards in another union that I have forgotten the name of. I believe it is the CBRT. Is that correct?

Mr. J. C. Anderson (Assistant to the Vice-President, Personnel, Canadian Pacific Railway Company): The Brotherhood of Railway Running Trades, as they call themselves, have no recognition or certification as you say. Of course, we do not know who belongs to them in what number, or whether they pay dues, and so on. We have no way of knowing that. We do know that it exists but not to what extent.

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The Chairman: Mr. Lewis?

Mr. Lewis: Mr. Chairman, to bring out a point, is the Brotherhood of Railway Running Trades the organization with headquarters in London, Ontario? They have a very small number of members, I understand.

Mr. Anderson: I believe so.

Mr. Lewis: You were telling Mr. Émard that there was a case in the court some years ago where they tried to argue that they are not covered by the check-off agreement of—I forget whether it was the CPR or the CNR that happened to be in the case.

Mr. Anderson: The CPR.

Mr. Lewis: I want to go back to the setup on the railways. I am sorry, Mr. Chairman, that I will touch on some ground already covered, but perhaps it might be a little clearer, not as a result of my questions but as a result of the answers.

Am I right in saying that at the present time there are two collective bargaining units? Try for the moment to separate the union that happens to represent the employees in a bargaining unit and the bargaining unit as such.

Mr. Gray: Mr. Lewis, I can follow your precedent and perhaps add something for clarification. Are you talking about legal bargaining units, that is to say established by decision of the Labour Relations Board, or actual bargaining units? That is to say, the constituency, so to speak, which may combine a number of unions for which negotiation with an employer takes place.

Mr. Lewis: I am not talking about the voluntary negotiating pattern, Mr. Gray. I do not want to sound like a professor. I am talking about a bargaining unit and there is no difference between a factual and a legal bargaining unit, with great respect.

Mr. Gray: At the risk of sounding like a student, I differ very severely with you.

Mr. Lewis: You can if you like but if by the factual bargaining unit you are talking about the non-ops all bargaining together, they are not a bargaining unit. The non-ops all bargaining together consist of a number of bargaining units, the bargaining agents for which have agreed to bargain together.

Mr. Gray was quite right; there is nothing in the law that forces them to do so, but they are not a bargaining unit and no one suggests they are a bargaining unit. And the historical fact that Mr. Gray asked, Mr. Chairman, is that many of these bargaining units existed before there was any labour relations law in Canada. Many of the bargaining units continued to exist and were recognized under the law without being certified as such. In many cases the certification came later, which was merely an accreditation of the fact that they were a bargaining unit and that a certain union represented them. I am talking about bargaining units; I will come to the non-op working together in a minute.

Am I right in saying that at the present time there is one bargaining unit for all the shop crafts on all the railways with one collective agreement covering all the shop crafts on all the railways? Is that correct?

Mr. Anderson: Yes.

Mr. Lewis: And that takes in all the shops of the CPR, the CNR, the Ontario Northern, if they have shops, and all the others; that is, one bargaining unit with one collective bargaining agreement. Am I right in the statement that the one collective bargaining agreement is serviced by six or seven unions—I forget how many there are—that represent parts of that collective bargaining unit?

Mr. Anderson: That is right.

Mr. Lewis: Am I right in saying secondly that you have one bargaining unit covering the maintenance of way employees with one collective agreement covering the maintenance of way employees, made with The Railway Association?

Mr. Anderson: That is right.

Mr. Lewis: And that covers the maintenance of way employees on every railway that is a member of The Railway Association?

Mr. Anderson: That is right.

Mr. Lewis: In that case there is only one union representing that bargaining unit, namely the Brotherhood of Maintenance-of-Way Employees. Is that right?

Mr. Anderson: That is correct.

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Mr. Lewis: Then there are separate units for the rest. There is a bargaining unit which the Brotherhood of Railway Clerks and Steamship Clerks represents on the CPR and that bargaining unit, as I remember from my work in this field representing the unions, covers clerks and express people and so on, on the CPR. And there is one bargaining unit and one collective agreement for all those classifications on the CPR with one union. Is that right?

Mr. McNeill: That is not quite correct. Evolution has produced a number of agreements, Mr. Lewis; that is the best way I can express it and maybe explain it.

By evolution I mean that you may start with your one agreement and then you will have other groups who fall under union organization and who require a union agreement. Because they are not the same cohesive group as the main group, and because of the difference in time as to dates, there will be a separate agreement.

You could almost call them supplementary to the main agreement, but over and above these different agreements—and I am speaking of the clerks which you have raised as an example—there will be one agreement which covers the bulk of them, but there will be other agreements covering other groups for various reasons which brought it about, but over and above that, at the time of negotiations, as I think you probably know from your experience, when an agreement is amended and renewed, it is done by one agreement, and then the necessary amendment is carried to the other individual agreement from that master agreement.

But you are right that there is just one agreement, if you are referring to what we term the master agreement, but it flows down to more than one agreement where you may have details, either as to grievance procedures or other types of things which are more appropriate to a group on the wharf in Vancouver, than appropriate to a group in the express freight shed in Toronto.

Mr. Lewis: I see. Now, then, the CB of RT has a similar set-up on the CNR.

Mr. Wilson: Exactly.

Mr. Lewis: And then, of course, you have the telegraphers. There are two telegraphers' unions, are there not?

Mr. Wilson: Transportation Communication Union, that is the old ORT.

Mr. Lewis: Yes.

Mr. Wilson: And then the CTU, Commercial Telegraphers Union. And we have agreements with both.

Mr. Lewis: And each of them is a national bargaining unit, a system bargaining unit, if you like, for the CPR and for the CNR separately.

Mr. McNeill: Yes. I wonder if I could add one further bit of explanation on what I was referring to.

One of the reasons underlying the fact that there are some of these separate agreements is that originally we held agreements for different groups not as a result of certification. You must remember that the railway unions that we have dealt with traditionally held agreements even before we had legislation in Canada. As a result of that we had numerous agreements with the same organization. As they become certified and as we renew the master agreement, we are gradually eliminating those agreements and this is a desirable objective in our mind and, we feel, also in the union's mind.

So rather than a proliferation, it is really a contraction and it is because those conditions no longer exist which existed 50 or 60 years ago, when you bargained without legislative sanction, or legislative requirement, or certification under legislation.

Mr. Lewis: And then you have the running trades, the trainmen, the firemen, the engineers and the conductors. Are they the four...

Mr. McNeill: Well, the trainmen and conductors.

Mr. Lewis: The conductors are in the trainmen's organization. I thought there was a separate conductors' union.

Mr. McNeill: There is in the United States, the Order of Railway Conductors and Brakemen, but they hold no agreements in Canada except one, I think; but none with us, the old RC & B.

Mr. Lewis: And in each case the bargaining unit is a system-wide bargaining unit.

Mr. McNeill: Yes.

Mr. Lewis: Starting at page 8 of your brief, I note that you refer to a number of benefits which have been negotiated. One of the first ones you mention is the job security fund, which I think was the result of the negotiations prior to the last.

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Mr. McNeill: 1962.

Mr. Lewis: 1962. One cent an hour, if I remember correctly. Would you elaborate a little on what you state in your brief on that point? You state:

Of course, exercising of seniority to work is a necessity for any job security plan to function and thus if a small minority

group were to be carved out of the whole there could be no logical basis upon which they could continue to participate in these job security benefits.

Would someone elaborate on that?

Mr. Anderson: Sir, if you are going to have a logical plan, as we do now, whereby these monetary benefits that we have, such as supplementary unemployment insurance benefits for laid-off employees or severance pay for those who wish to sever in the event there is no work, and if this plan is to work logically, you have to have a satisfactory seniority arrangement.

For example, you cannot have small minority groups where there is a reduction in staff in one group at the end of this hall we will say, where men with ten or fifteen years' service are being laid off, but down at this end we have another group doing substantially the same work, where men with maybe one or two years of service, or maybe as little as six months, continue to work, and that simply because we have a break in seniority those people do not have any rights over here. This is substantially what we had in the railways industry in certain groups, like the shop crafts and the clerks.

When the job security plan became a reality in 1962, one of the provisions was that we had to make rational seniority arrangements for these people, and this has all been done. We do not have any more of this situation where you have a maintenance shop at one end of the yard and another one someplace else in the yard and the men cannot interchange. We have changed all that. The ability of a man to exercise his seniority is the first requirement to protect the longest service employees. The monetary benefits are secondary. In other words, the long service employee must work; that should be the first criterion.

We do not feel that you can possibly have any kind of rational plan whereby you are going to be paying severance pay to somebody with 15 years' service while there is a job within a stone's throw from him that he is perfectly capable of handling, but that he cannot have. We feel that this is what you get into again and that we are right back where we were before, if we get into this fragmentation and small groups, because they will never allow this seniority movement across these lines.

Mr. E. K. House (Assistant Vice President, Labour Relations, Canadian National Railways): May I add something to that, Mr. Lewis? Sometimes on the railway we find it necessary to transfer from one shop to another, and under our existing rules, it is possible for a man to follow the transfer of work. To cut down on the size of your seniority territories would make that impossible; it would ultimately work to the disadvantage of the employees.

We have transferred work from London to Montreal and the people transferred were able to follow their work. If we were to restrict the size of seniority territories, such things would be absolutely impossible.

Mr. Lewis: So that if you had a separate bargaining unit at one of the CNR shops for instance, where would that be, to take an example?

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Mr. Wilson: If we were to transfer work from Moncton to Montreal, under the existing agreements, a man could follow his work, but if there were separate organizations representing the men in Moncton and the men in Montreal, obviously they could not follow the work, because they would come in to Montreal at the tail end of the seniority list, if there was any work for them at all; they would have no right to come to Montreal, or to go to Winnipeg.

Indeed those transfers have been made. We have moved men from Moncton to Montreal, and to Winnipeg; we have moved men from London and Stratford, and when you move them now they are able to carry with them their full seniority—

Mr. Wilson: Exactly.

Mr. Lewis: —and all their rights in connection with that seniority.

Mr. Wilson: Exactly.

Mr. Émard: No matter if they change unions?

Mr. Wilson: It is under the one agreement, you see; it is a national agreement.

Mr. McNeill: That is why it is possible.

Mr. Wilson: That is why it is possible. If there were separate organizations representing a group of employees in this or that shop it would be impossible; the men would lose their rights.

Mr. Lewis: You then deal with the health and welfare plans you have on the railways, which now date back about what, 10 or 12 years?

Mr. McNeill: To 1957, I think.

Mr. Lewis: Yes, 1956 or 1957. I thought it was about 10 or 12 years. Would someone elaborate on how these benefits could be affected? We have been speaking and questioning all the time in this Committee as if this were merely a battle between organizations. I am concerned and I intended—whether you had had it in the brief or not—to see what, as Members of Parliament, we could find out about what happens to the individuals who are concerned in this situation. Would someone elaborate on what might be the effect of fragmentation on the employees of the railways in connection with their medical, hospital and surgical benefits, and so on?

Mr. Anderson: At the present time we have an over-all group plan for the many, many thousands of employees of all the railways which covers surgical-medical benefits, weekly indemnity when absent, sickness group insurance, and so on. This is made possible by the over-all collaboration of these major groups. If you have fragmentation into many smaller groups and this collaboration is lost—and I suggest to a very large extent it would be—I think we are all wise enough to know that the rates for the same coverage in small groups will be greater. The underwriters will not quote the rates for small groups that they will quote for large groups. Therefore it would become more costly for all the employees to have the same benefits they now have.

Mr. Lewis: I suppose, to put it fairly, it is conceivable that a small break-off group could get the collaboration of other groups so that you could continue to treat the whole as one group, which is what you have done until now. However, there is a danger they may not do this.

Mr. Anderson: I think that is putting it fairly, sir. I think there is a great danger that they would.

Mr. McNeill: On that, Mr. Lewis, I might give you an example, not of what I call fragmentation because it was on a national basis, but it was unfortunate that in the last negotiations there was a change in the

benefits under the health and welfare plan with respect to weekly indemnity. It involved the length of the waiting period, the period during which the benefit would be tenable and the amount of the weekly benefit. As Mr. Wilson explained earlier, the negotiations at this time—what I call the national negotiations—broke into three groups: the shop crafts, the residual non-ops and the CPR-GTW. Each of those three groups on this one item—fortunately not on other items—showed a different basis for taking the improved benefits. One took it in the amount of the weekly indemnity and another group took it in the length during which it was tenable. This break resulted, for that particular benefit, in the need for getting three quotations from the underwriters, and as a result the premium has gone up.

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Mr. Lewis: You have an example of this in the present situation. Finally, how would the apprentice training program you mentioned, be affected?

Mr. Anderson: For many years the railways have had very elaborate apprentice training plans for skilled mechanics—electricians, machinists, pipefitters, blacksmiths, and so on. This plan is a five-year plan and it is well organized. However, the trainee cannot get all of his training in one location. For example, he must obtain some of the training he needs in a main shop like Angus; but he certainly cannot obtain all the training he needs there, he has to go to running shops or line shops, as we call them, for much of his training. Our present plan allows us to move these people around throughout this five-year period to give them the best education possible, so that at the end of the five years they are fully skilled men in their trade.

If, again, we were to have fragmentation, where different unions were representing the same craft—for example, electricians or machinists—in different locations, we would simply not be able to do this because there would be no crossing of seniority lines in going from one group to another. Someone might say to me, “perhaps some kind of an agreement could be made”, and so on, but I do not see any possibility of that. Our present training plans would be very seriously curtailed.

Mr. Lewis: I would now like to pursue a point that Mr. Gray discussed with Mr.

McNeill about the effect of the proposed amendment. I suppose this shows up the difference among lawyers. I know that Mr. McNeill, is a lawyer by training, Mr. Gray is a lawyer by training and I may even claim to be a lawyer by training. Mr. McNeill, the suggestion has been made before in this Committee that this Bill really makes no difference, that the authority was there and this Bill merely clarifies it. I suppose what you are saying—I must say I said it, and as a lawyer I agree with it—is that any applicant who appears before the Board, should these amendments pass, would be able to argue before the Board—and I think persuade the Board—that Parliament must have had something in mind when it passed this amendment.

Mr. McNeill: That would be my concern.

Mr. Lewis: All of us are agreed the power is already there and it has been exercised by the Board. If, despite the fact the power is already there, Parliament passes this amendment, it will be argued they must have a purpose. This purpose, the applicant will argue, must be to tell the Board that from now on they are to exercise the power which they previously had in such cases. It is probable that the Board would have to listen to that argument.

Mr. McNeill: I fear that would be the result.

Mr. Lewis: It cannot be a clarification when no one doubted the power of the Board in these spheres. When a tribunal has already exercised the power to certify regional groups and it has in fact split up national units, as evidence given before the Board has shown, then there is no need for clarification. Is that not right?

Mr. McNeill: I share that view, Mr. Lewis.

• 1210

Mr. Lewis: Yes, and therefore the presence of the amendment must be, in effect, a directive to the Board and not merely the clarification of a situation.

Mr. McNeill: That is one of the reasons we are testifying here in opposition to the Bill.

Mr. Wilson: I would like to add, Mr. Chairman, that the bill goes on to provide for appeal. To our mind this is, something unique because any deliberations the Board may

engage in or any judgment they may bring to bear upon the justification for an application can be erased completely by the Appeal Board. In each case someone would lose, and I suspect in most cases there would be an appeal. The Appeal Board would then consider the case anew and render a decision which would be final and binding.

Mr. Gray: If there is an appeal section, then Parliament could not give a binding and final direction to the Board. Otherwise, why would there be on appeal?

Mr. Lewis: That is what Mr. Wilson is saying.

Mr. Gray: Then why have the Board? By your own answer you have demonstrated that whatever Parliament may be doing in clause 4(a) it is not giving a final direction to the Board. The question is open either way.

Mr. McNeill: I hate to say it, Mr. Gray, but this goes back to a remark made during your questioning of me that the reason for the legislation is that they do not trust the Board.

Mr. Gray: I am not casting reflections on the existing Board. You may want to do so, but those are your words.

Mr. Lewis: I do not want to interrupt Mr. Gray—

Mr. Gray: I apologize.

Mr. Lewis: That is all right. I enjoyed your invalid interjections.

Mr. Gray: As much as I enjoyed the invalid assertions in your questions.

Mr. Lewis: That is fine. Then we enjoy each other. This makes for brotherhood, which is always desirable.

Mr. Gray: This is Brotherhood Week.

Mr. Lewis: Yes, take yesterday as an example.

Mr. Chairman, if the gentlemen who represent the railways have the information it might be useful to have it in the following area. Have any attempts been made by unions, other than the CNTU, to break up your national unit?

Mr. McNeill: Mr. Lewis, some years ago efforts were made by the teamsters to get certification for portions of our work force on the CPR. That is the only instance I can recall, at the moment.

Mr. Lewis: Did that go to the Board?

Mr. McNeill: It went to the Board and it was denied. It was not really on the matter of appropriateness because there was a technical problem which could not be overcome, so the appropriateness was not decided in complete or full terms.

Mr. Lewis: I may be wrong but I seem to recall the Brotherhood of Locomotive Engineers trying to displace the firemen on a portion of one of the railways. Does anybody else recall that?

Mr. E. K. House: It was the reverse, Mr. Lewis, the Brotherhood of Locomotive Firemen and Enginemen endeavoured to take over the contract held by the Brotherhood of Locomotive Engineers on all Canadian National Lines.

Mr. Lewis: There was no attempt—

Mr. House: There was a subsequent application of the B. of L.E. to reverse that decision, but because of some irregularities in their approach it was thrown out. There was also a case in Newfoundland where the contract for engine service was held by the Brotherhood of Locomotive Firemen and Enginemen. The B. of L.E.—the Brotherhood of Locomotive Engineers—endeavoured to take over that contract. There was a referendum on the question and they were defeated.

Mr. Lewis: But these are not examples of an attempt to break up a system-wide unit?

Mr. House: No, not at all. No, they were national in their approach.

Mr. Lewis: Then I must have been mistaken. I have no more questions, Mr. Chairman.

Mr. Munro: Mr. Chairman, let me say first how heartening it is to see that the Railway Association and Mr. Lewis are getting along so famously this morning, dovetailing their questions and answers so neatly.

• 1215

Mr. Lewis: Mr. Munro, I told Mr. McNeill and Mr. Wilson before the meeting started that I would feel out of place if I agreed with them, but right is right.

Mr. Munro: I do not know to whom I should direct this question. Perhaps Mr. McNeill could answer it. Would you be in favour of legislation that would require national bargaining on the part of employers and unions and the railways?

Mr. McNeill: Mr. Munro, I have never really thought of the problem in those terms. Over the years in our major negotiations on the railway—I put it that way only because there may have been some instances, although I cannot recall them, where there was not national bargaining—we have always had the experience of national bargaining. But to answer your question as to whether I favour such legislation, my philosophy is that the less compulsory legislation you have of this sort the better it will be. I am afraid I have to give you an unsatisfactory answer because I do not have a considered opinion on that question.

Mr. Munro: Your brief and your evidence here today has indicated that you are very concerned about fragmentation, disintegration of bargaining units, and so on. If legislation were passed requiring national bargaining on the part of the railways and employees, presumably this would solve your fears in one fell swoop, would it not?

Mr. McNeill: Let me put it this way. I favour national bargaining on the railways and my experience is what causes me to say that. If I were faced with a choice of legislation which directed fragmentation as against legislation that required national bargaining, I would favour legislation requiring national bargaining.

Mr. Munro: But you also said that you would prefer it if this evolution to national bargaining were to take place in a voluntary way rather than being imposed by governmental decree.

Mr. McNeill: No, I do not think I made myself quite clear. What I was trying to say is that I have not given it complete consideration. I am always worried about problems that may arise from any compulsory legislation, and while at the moment I cannot think what those problems might be I am not prepared to say that it might not create problems at the same time it settled problems. However, I certainly have no hesitation in saying that if it were a choice between legislation directing or encouraging fragmentation, as against legislation encouraging or directing national bargaining, I would strongly favour the legislation with respect to national bargaining.

Mr. Munro: Would you not agree that with your present situation you really do not feel there is a need for legislation which imposes national bargaining because, in effect, that is

what you have under the present setup with the Canada Labour Relations Board?

Mr. McNeill: That is very true.

Mr. Munro: So in effect you have the desired result in terms of compulsory national bargaining?

Mr. McNeill: That is probably good reason why I have never turned my mind to the pros and cons of the question, Mr. Munro.

Mr. Munro: You are not objecting to any type of a compulsory element here because in terms of practise it is already in force?

Mr. McNeill: We are back to the same point. Parliament, to my mind, does not speak with a silent voice. If Parliament legislates I think they must have some purpose for so doing. It is very difficult to accept the form of the present legislation as anything but a clarification, because in my experience I never have run into any situation or problem which required that clarification. Therefore, I immediately harboured the concern that it would be treated as a direction towards fragmentation.

• 1220

Mr. Munro: By placing that interpretation of this amendment you are fearful of this element of direction. You favour the present set up where the Board's previous decisions indicate quite clearly that they are in favour of national bargaining units and that is why you want the legislation to remain as it is without amendment. Is that not correct?

Mr. McNeill: Yes, because we favour that form of legislation.

Mr. Munro: Most employers to whom I have spoken—I do not criticize them at all—have indicated they find any type of compulsion abhorrent, and perhaps the railways differ in this particular aspect. But would you disagree with me when I say that it would be much better if this type of coalescing in terms of unions—the rationalization within the union movement, particularly in the railways and perhaps even on the part of yourselves as employers—could take place in a voluntary way with negotiations amongst yourselves as reasonable men and without the outside assistance of either governmental boards or governmental legislation.

Mr. McNeill: Is that a question, sir?

Mr. Munro: Yes.

Mr. McNeill: If I understood it properly, I think I share that philosophy, yes.

Mr. Munro: I guess it is not hard to understand how some unions that appear before the Board are confronted with this type of approach. Knowing the Board is predisposed to national bargaining units they really do not stand much of a chance of getting certified. One can well see how badly they must feel that in fact to their way of thinking this is really compulsory in terms of practice. The element of compulsion is there in terms of forcing this national bargaining concept throughout the country, and they bear the brunt of this type of compulsory approach. Naturally I think you should understand how chagrined they would be if they were confronted with this type of concept and they did not have an opportunity to get certified and see if they could not come together with other unions in a voluntary way.

Mr. McNeill: I do not know if I fully appreciate that, if it is a question. It seems to me if you are saying there are some unions who feel they have no opportunity or there is no possibility of securing certifications of portions of national employee groups and we should not quarrel with this legislation because it will change that situation, then this legislation has a different purpose than purely for clarification.

Mr. Munro: At least it gives them a chance without having the deck stacked against them.

Mr. McNeill: How does merely clarification give them a chance? It must be substantive legislation if it is to change their position.

Mr. Munro: I think we have already agreed that in these circumstances unions that appear before the Board are met head on with this concept and do not stand very much chance at all. In fact, they are usually not recognized as the bargaining agent and are not certified unless they fall within the over all union movement across the country that has certification in other regions. This compulsory type of approach is, I think, disturbing to some and I wonder if you would agree, in fact, if we do not give some indication that some broader considerations can be taken into account by the Board we are really imposing unity on the labour movement? If it is not being done by governmental legislation, then certainly it is being done by a governmental agency. Are we not imposing it upon

them and, to a degree, upon the employers themselves?

• 1225

Mr. McNeill: I do not think so.

Mr. Munro: You do not?

Mr. McNeill: No. I accept the view that this is purely clarification. I hold the view that they now have the power. I feel it has been exercised judiciously and judicially, and I simply do not share that view.

Mr. Munro: In view of that, I take it the amendment to suggested clause 4(a) is what you have the greatest objection to. If that were removed would it satisfy your objections to this Bill?

Mr. McNeill: It would satisfy my objection to that clause.

Mr. Munro: I see. You would still object to the other provisions of the Bill?

Mr. McNeill: Yes. I am unhappy about the appeal provisions.

Mr. Munro: Why? Would you still object in terms of the appeal provisions if this particular clause were removed?

Mr. McNeill: Because I think the appeal provisions are going to result in constant appeals. I think one of the unfortunate circumstances about this particular legislation is that we are at a time in labour relations in the country when people have the wrong conception about the stability of labour relations and employer union relations, particularly in the federal field. We have made this point in other places, and although we sustained a strike on the railways in 1966, if you use any of the tests to determine the state of relations on the railways you would say they are extremely healthy, and I think that view is shared by the unions with whom we deal. I think anything which will encourage appeals from decisions of this Board is going to create uncertainty and instability. As Mr. Wilson said, I think there will always be a loser in these cases, and if the appellate process is open to people it will be taken advantage of. As I read the statute, at the present moment the appellate board is basically an ad hoc board, and I think that in itself is bad. Even with the removal of provision 4(a) I think I would still be against this legislation.

Mr. Munro: Certainly if we removed 4(a) it would remove your concern that there is any special direction to the Board.

Mr. McNeill: Oh, indeed. I cannot argue that.

Mr. Munro: So, that objection having been removed, your objections now are simply that you do not feel there should be any appeal procedure open to anyone appearing before the Board who may feel they have not had a fair hearing or who may feel aggrieved on one basis or another. They should not have a right to appeal that decision?

Mr. McNeill: My own philosophy on tribunals of this sort is that avenues of appeal exist on questions of law or on questions of jurisdiction rather than on the merits of the case.

Mr. Munro: We know the difficulties there. I am rather surprised to hear that the concept of appeal to the aggrieved party is repugnant to any group of employers. I think we built this into much legislation and it has always been lauded by most people. I am surprised to hear that, but I take it certainly a good part of your objection would be removed if we did not proceed with clause 4(a) but proceeded with the rest of the bill.

Mr. McNeill: I would say so, indeed.

Mr. Munro: Mr. Gray questioned you earlier on this aspect and I think it was you or someone else who mentioned there were now really three main negotiating groups. That is the pattern that has recently developed. Is that right?

• 1230

Mr. McNeill: I would like to get that in its proper perspective, Mr. Munro, because it is a development that only took place with respect to the recent negotiations, the last round of negotiations. We do not know if it is a situation that will continue. We do know that a large body of opinion in all of those three unions is to go back to the more concerted effort. Whether they will succeed in doing that is another question. Therefore I would not want the one occasion to be the basis for saying that this will necessarily be the pattern of negotiations on the railways in the future. I do not know.

Mr. Munro: You mentioned that the Railway Association has one agreement with all the shop crafts. You also mentioned that the

operating trades and others have separate agreements with the railways.

Now, as an organization that has so enthusiastically endorsed national bargaining, what effort has the Association made to negotiate for all the railways through its relations with all railway employees?

Mr. McNeill: Perhaps we are confusing two things. National bargaining is one of them. You can have national bargaining without there being concerted bargaining with more than one union; and it is national bargaining in all instances. In other instances, it may be a combination not only of national bargaining but also of a concerted group of unions. There is a distinction between concerted bargaining and national bargaining.

Mr. Munro: I assume that it would certainly be to your interests, and that you hope it will evolve, that in terms of the railways there would be less of the fragmentation that is already occurring in the bargaining units, and that they can bargain with fewer groups, and have much more embracing agreements, embodying and binding more groups, than is presently the case.

Mr. McNeill: We are still making the same mistake. This break-up in our last round of negotiations was not a fragmentation of bargaining units or of a coherent group of employees. It was a break-up of a concerted movement of a number of unions. The fragmentation would come on the Canadian Pacific Railway, for instance, where we have one agreement and one union with whom we bargain for all locomotive engineers across Canada.

Fragmentation, to my mind, would be if in each of our four regions, or 25 divisions, a different union became certified for the locomotive engineers. This is what we mean when we talk of fragmentation, and that is what we are fearful of.

Mr. Munro: Yes; but you are fearful of fragmentation because it does involve another union and another set of negotiations involving another collective agreement which may have a different terminal date, and so on. This could lead to chaos, as you mention in your brief. Therefore, it is really the end result of this type of activity that you fear very much.

If that is so, to be consistent you would also be very much in favour of an amalgamation of the various groups that are now nego-

tiating with you. Even though, for a particular occupation, they may be bargaining on a national scale you would like to see some coalescing with other occupational groups, so that there could be some consistency in terms of terminal dates under the agreements, and so on?

Mr. McNeill: No; one can only rationalize concerted movements, in negotiations with more than one union—which we indulge in—if the items at issue are common to all of them.

Over the years, if for no reason other than the negotiating burden it imposes both on us and on them, we have welcomed the fact that we have been able to negotiate with a concerted group of 16 non-operating unions, because the issues relative to each of those unions are usually the same; if there are differences they are very minor.

However, one could not expect to coalesce the locomotive engineers and the brotherhood of railway and steamship clerks into one bargaining session. The issues are so entirely and radically different that it would be an impossible task.

• 1235

Mr. Munro: Are you in favour of agreement between unions and yourself in the matter of the terminal dates of agreements?

Mr. McNeill: We have different terminal dates for a number of our agreements. The non-operating union agreements usually expire at the end of the calendar year; the locomotive engineers come open two or three months later; and the firemen a month or so after that. So far, they have certainly not created problems which, to my mind, would require legislative action. They constitute such an entirely different set of issues that even the term has not made very much difference so far.

Mr. Munro: To someone who does not pretend to be an expert in this field, collective bargaining between the railways and the unions has not been notably successful over the years. The government has usually been called upon to...

Mr. McNeill: This is where I would enjoy a discussion with you. The fact is that that is not so. To begin with, in 20 years we have had two general strikes, one in 1950 and the other in 1966; and we had a strike on the Canadian Pacific Railway in 1957. That I

consider to be a pretty good record under the circumstances.

Leaving that aside, and to consider government intervention, over the period of the last 14 or 15 years you have had, if you like, a crisis in Ottawa, which has involved government intervention. However, in a sense, that was of the government's own making, not the bargainers'. It was the result of the freeze on freight rates which arose from your inability to secure the revenue to meet your wage increases.

Mr. Munro: I have one last question. The aspect of this legislation that is most troublesome to me, Mr. McNeill, is that a CNTU union—to use the case previously mentioned—appearing before a board and asking for certification may find that the board is composed of three representatives from unions affiliated with the CLC and one independent. You can see at least the appearance of injustice, and how they would feel, in those circumstances, that they were possibly not getting the fairest hearing, especially when one considers how these appointments are made.

Is it not quite obvious to any reasonable man that that element is bound to create dissatisfaction? If you, an employer, were confronted with the same situation would you not feel that an element of unfairness was involved?

Mr. McNeill: You ask a question which, for a great number of reasons, is not too easy to answer. Where are you going to draw the line on representation? Are you going to draw it in numbers? I know of other unions with large numbers of members, who, on that theory, are possibly entitled to the same representation on the board. The Teamsters, for instance, may well assert the same right. I do not know.

Mr. Munro: They are in favour of this legislation.

Mr. McNeill: Probably that is the reason. I am quite sure that other unions would then say, "If they are entitled to three, and they are entitled to three and they are entitled to two, then just on the arithmetic I am entitled to one." I am confining myself, of course, to the federal field.

• 1240

Mr. Munro: I submit that anyone, be he from the labour movement or management,

confronted with that type of appointments to the Board, would feel very much that he was not getting the fairest type of hearing. I point this out only to see whether a group of employers like yourselves, when considering that aspect objectively, would not see some merit in appeal procedures, some type of safety valve, for this very real feeling of injustice that such applicants would inevitably feel.

Mr. McNeill: I am sure the unions will speak to that very adequately themselves, but on the question of the role of the employer and that, I do not think I am really competent to answer.

Mr. Gray: You are not suggesting there is anything in this amending Bill that changes the present method of relationship between management representatives and labour representatives on the Board?

Mr. McNeill: I have made no suggestion at all. I have just tried to answer Mr. Munro's questions.

Mr. Gray: For that matter, between one labour centre and another?

Mr. McNeill: That is why I say I am sure they will speak for themselves perfectly adequately.

Mr. Hymmen: Mr. Chairman, may I ask a question for clarification?

The Chairman: Yes.

Mr. Hymmen: Is the Railway Association represented on the Canada Labour Relations Board?

Mr. McNeill: I guess the railway industry is, but I do not know just how the appointment came about. There is a member of the Canada Labour Relations Board who has a railway background and I honestly do not know just how his appointment came about. It was a long time ago. I never thought of him as a railway representative but—

Mr. Hymmen: Mr. Chairman, this came up before. Maybe other members of the Committee would like to know the composition of the management or employer representation on the Board. Could we have that?

The Chairman: We are still waiting patiently, and our patience is at the point of exhaustion, for some documentation from Mr. MacDougall. Maybe Mr. Mackasey, in his capacity

as the Minister responsible for that Department at the moment, might like to prod one of his officials along?

An hon. Member: How late are we sitting?

The Chairman: Until one o'clock. We will see how Mr. Reid makes out. He is noted for being a brief cross-examiner. He is to the point, succinct, lucid—

Mr. Reid: Mr. Chairman, thank you for the hint.

The Chairman: You have 20 minutes.

Mr. Reid: I would like to say to Mr. McNeill, following on Mr. Munro's questions, that in fact the evidence he has given to Mr. Munro indicates that to a large extent the unions and the management representatives on the CLRB operate as a closed shop in national bargaining units, closing out competing units which might possibly want a share of the action; in effect, that there is a bias—

Mr. McNeill: I do not think that is a fair inference, Mr. Reid. As I say, I think that if the unions are concerned about their representation they should speak but I hope nothing I have said suggests there is a conspiracy or any other form of closed shop on the part of the employers and any one or more unions now represented on that Board to maintain the status quo.

Mr. Reid: I do not think I suggested the word "conspiracy". I think it is just a natural reaction that those who have wish to keep it, and that those who have not want to get part of it.

Mr. McNeill: I might say to you, if it will be a satisfactory answer to you, that I have never, and I am sure Mr. Wilson has never, ever discussed with any of the unions with whom we deal who the appointees to that Board should be.

Mr. Reid: No, I do not think I was suggesting that. I am just suggesting that it is probably a very natural attitude that there should be a certain amount of careful scrutiny of people who are trying to break into the lodge, so to speak.

Mr. McNeill: I would like to disabuse you of any thought there is such an attitude, sir. I am not conscious of it, I am not aware of it, and I certainly do not favour it.

Mr. Reid: Fine. Mr. Munro suggested that as clause 1 of the Bill does not add any pow-

ers to the Board which are not already in existence, if it would satisfy your objections to part of the Bill, he would not mind seeing it dropped.

• 1245

Mr. Munro: I did not put it that way.

Mr. Lewis: He did not quite commit himself to that.

Mr. McNeill: I would not mind seeing it dropped.

Mr. Reid: I mean Mr. McNeill would not mind seeing it dropped.

An hon. Member: That is a hypothetical question.

Mr. Lewis: Yes, that is a hypothetical question.

Mr. Reid: Given that clause 1 clarifies the powers of the Board already in existence, in this book "Determination of the Appropriate Bargaining Unit by Labour Relations Boards in Canada" by Edward F. Herman, one of the criteria given is the history and pattern of collective bargaining in the industry, in the firm or in the bargaining unit in question. I would like your opinion whether this type of criteria would be changed by the suggested amendment to clause 4.

Mr. McNeill: I am not familiar with that.

Mr. Reid: Oh, I understand.

Mr. Gray: May I make a suggestion, Mr. Reid? I happen to have here the Minutes containing the testimony of Mr. MacDougall in which he put in evidence the criteria which the Board customarily follows at the present time in deciding the appropriateness of bargaining units. Perhaps this may have a more official capacity. I could hand you this to read aloud.

Mr. McNeill: I do not know whether my memory will be good enough to retain it, Mr. Gray, but if it were in front of me I might be able to answer the question.

Mr. Gray: I think the Clerk has copies. Perhaps he can hand you one. I will read it and I will hand it to you. It is number 3 of the Minutes of Proceedings and Evidence of the Standing Committee on Labour and Employment.

I think Mr. Lewis and I were asking the questions.

Mr. Lewis: I remember but I have not seen it yet.

Mr. Gray: I think it just came out. Mr. McNeill, I think you are being too modest; otherwise you would not hold the very responsible position you hold.

Mr. McNeill: No, I am not being modest when I talk about my memory.

The Chairman: Could you please give us the page numbers?

Mr. Gray: Yes. They are pages 50 and 51. Mr. MacDougall says, referring to these criteria:

Mr. MacDougall: They are not my criteria; they are those of the Board, I assure you.

It considers in the determination of bargaining units the purposes and provisions of the legislation administered by the Board, particularly those which govern the establishment of appropriate units; second, the mutuality or community of interests of the employees or groups of employees in the proposed bargaining unit; third, the past bargaining history of the bargaining unit in question; fourth, the history, extent and type of employee organization involved in the unit determination.

And Mr. Lewis asks:

Mr. Lewis: Pardon me, but what was the difference between the third and the fourth?

Mr. MacDougall: The history, extent and the type of employee organizations.

Mr. Lewis: The first is the history of bargaining?

Mr. MacDougall: The past bargaining history, and then the history, extent and type of employee organization involved in the unit to be determined; the history, extent and type of organization of employees in other plants of the same employer or other employers in the same industry; the skill, method of remuneration, work and working conditions of the employees involved in the unit determination; the desires of the employees as to the bargaining unit in which they are to be embraced, particularly after expression by means of a vote; the eligibility of the employees for membership in the trade union or labour organization involved. That is rather rare—

Then there is some discussion about the Civil Service and so on and finally Mr. MacDougall concludes:

Mr. MacDougall: Yes; in its criteria the Board also looks at the relationship between the unit or units proposed and the employer's organization and management or its operation, and how the proposed unit fits into the company's organization or its plant set-up, and so on. It looks at the existence of an association of separate employees exercising employer functions and having a history of collective bargaining on a multiple employer basis; also, the bargaining performance of an existing bargaining agent with respect to employees in the unit previously determined as appropriate.

Perhaps I will just hand this along here. I think this is what Mr. Reid was...

Mr. Reid: My point is that basically in some cases the criteria the Board has laid down by itself is much more important than, say, the criteria contained in the original Act or even in the amended clause 4(a). We find, for example, that we pass legislation only to discover that the regulations do exactly the opposite of what we expected.

• 1250

Mr. McNeill: My trouble is that as Mr. Gray read them I did not catch any particular criterion that I could argue against in any particular case. You must remember that this Board will hear cases where some of these criteria probably will not even apply in one case but may well apply in another. Just on a reading of it I would not like to say that is an exclusive list and also—maybe this is my legal caution—I would not like to commit myself, and in this particular case I would not argue against the application of any one of those criteria to the case in question. But as a general reading I cannot quarrel with them as adequate and proper criteria, but whether they are exclusive or not I could not answer off-hand.

Mr. Lewis: If Mr. McNeill will permit me, how would the first criterion that Mr. MacDougall mentioned apply to the Bill we are considering?

Mr. McNeill: I think what you refer to is where Mr. MacDougall says:

It considers in the determination of bargaining units the purposes and provisions

of the legislation administered by the Board.

Mr. Gray: What is the third one?

Mr. McNeill: Wait a minute, I will have to count them.

Mr. Lewis: Community of interest.

Mr. Gray: No, that is the second.

Mr. McNeill: The second:

the mutuality or community of interests of the employees or groups of employees in the proposed bargaining unit;

third, the past bargaining history of the bargaining unit in question.

Mr. Gray: Is there anything in the proposed amending act excluding from the consideration of the Board the third criterion you have read, or any of those criteria?

Mr. McNeill: Well, I hate to be tiresome, Mr. Gray, but I go back to my original objection to the legislation, that if it has a purpose the only one I can read into it at the moment—and I think all legislation must have a purpose—is at least an implied direction to follow this new additional criterion that is laid down which, in my opinion, cuts across a number of these.

Mr. Gray: Not to exclude any others; it directs attention to it.

Mr. McNeill: I think it could exclude some of them. It might be a balancing matter but it could easily exclude a number of them.

Mr. Reid: If I may come back to the questioning, I would like to ask whether there are any other clauses in the Bill besides the appeal clause, with which I would like to deal separately, to which The Railway Association has any objection? That is, the clauses dealing with the appointment of a second vice-president who, according to the Minister, is to be a bilingual gentleman, or lady; second, in clause 3, the question of the panel; in clause 4 the power to amend its own regulations and, of course, the final clause which is the appeal clause.

Mr. McNeill: I cannot see how The Railway Association can take any particular objection to those others. To me that is administrative and I am not too sure it is not healthy and a move in the right direction. Mind you, we are not too aware of the load this Board has

because we do not have too many occasions to appear before it. Our feeling is that it is quite a light load.

Mr. Reid: To deal with the appeal clause which, to my mind, is the heart of the whole matter, would it be safe to say that the effect of this appeal clause in setting up people not connected either with management or the union movement really would be to create what loosely can be termed a public interest board?

In other words, it would take it out of the hands of the two contending factions, management and labour, and put it into the hands of the general public interest, more or less, if one wished to go that far.

• 1255

Mr. McNeill: My own feeling of the appellate process in cases like is for certainty and consistency, correction of obvious or maybe not obvious errors in the judgment appealed from but if you have a board as an appeal board which is to reflect the public interest, the public interest changes, I am sure the personnel of the appeal board is going to change, and I think you are going to lose the only justification for an appeal board which is to get rational, reasonable, sound precedents for the guidance of the board from whom the appeals come.

Mr. Reid: One of the criticisms of the present Board is that it has not, in some people's opinions, moved to take into consideration the changing circumstances. In other words it is still using criteria in 1967 based on the legislation as it was in 1948.

Mr. McNeill: I have heard that criticism of the Supreme Court of Canada.

Mr. Reid: I think to some extent that is probably justified and it is justified in the case of the Supreme Court, too.

Mr. McNeill: I am sure that in 10 or 15 years, or maybe less, you will have that criticism of these appeal boards.

Mr. Reid: You are assuming the appeal board is going through.

Mr. McNeill: No, I am not; just if they do.

Mr. Reid: To some extent the pressure upon you gentlemen by your employers is to create a more rational bargaining system which I think is desirable. The pressures upon the union people who are doing the

negotiating with you are quite different because they have to answer to their members. Do you find, for example, when you make national agreements that there is some difficulty with the union's trying to implement them if all the complaints of their members are not satisfied?

Mr. McNeill: No.

Mr. Reid: In other words, the present unions are very much in control of their memberships? If they do make an agreement they are able to go back and to sell it to their members?

Mr. McNeill: I do not know whether "control" is the right word. I would say that the membership generally has respect for and confidence in their negotiators and the agreements after they become effective; you do have pockets against some particular feature.

Perhaps the best indication I can give you is to say that with the number of employees and the different classes and groups that we deal with, I think I could honestly say that at the present moment on both railways there are not 10 grievances that have not been processed and completed. The only reason they have not been processed and completed is that probably they have only arisen in the last month or so and have not reached the stage of having been dealt with. I think that is a pretty good test.

Mr. Reid: Generally speaking, then, you would say that The Railway Association is satisfied with the trends in collective bargaining in the railways as you described for Mr. Lewis and Mr. Gray. In other words, there is a disappearing of the fractionalism that now exists between the various crafts and their...

Mr. McNeill: I wonder if we are not in another area. If you are going to talk about the collective bargaining process in another respect I might have something to say, but I do not think it is relevant to this Bill.

Mr. Reid: My own feeling is that if the arguments against clause 1 are true—in other words, that it does not add anything to the powers of the Board—I think perhaps it ought to be dropped. That would be an agreeable position to you as well. I pass, Mr. Chairman.

Mr. McCleave: May I raise a point of order, Mr. Chairman? I see a notice for a meeting tomorrow afternoon, Wednesday, and I thought the agreement in the Steering Com-

mittee was that these hearings would be confined to Tuesdays and Thursdays.

The Chairman: Yes, that was a specific exception, Mr. McCleave. It is the only Wednesday we have and it is a day when both those groups can attend, and the Steering Committee agreed to it.

The only exception I have made to the Steering Committee, and I informed you about it and had no complaint, is the Monday meeting which I tried to avoid, but John C. Ward of ARTEC specifically requested the Monday and in view of the fact that he wanted it I sent a notice out to you stating we have scheduled him. I had no objections so I confirmed it; but the Wednesday really was confirmed.

If there are no further questions...

● 1300

Mr. Gray: I have something and if I go on for more than a minute or two someone will cut me off, I am sure. What troubles me about your brief and its comments on the appeal commission is the use of the term *ad hoc* and you have used it again here. Can you point to anything in the proposed section 5 dealing with the appeal board which makes the appointment of the appeal board any more *ad hoc* or in other words, temporary and transitory, than the appointment of the members of the CLRB itself?

Mr. McNeill: I have forgotten the tenure of the members of the CLRB.

Mr. Gray: They are appointed by the Governor in Council.

Mr. Lewis: I really do not think we should argue about it, Mr. Gray, because I was going to interrupt and say that if my memory serves me right the Minister at some point or other, either on the floor of the House or before the Committee, suggested the appointments would not be *ad hoc*, they would be part-time permanent. I think those were his words.

Mr. McNeill: In justification for having said what I did on that particular point, may I say I was here when the Minister made that statement; however I was subsequently advised that someone had made a statement to the contrary and it would be *ad hoc*.

Mr. Lewis: It is not impossible that both statements may have been made by two ministers. That has happened.

Mr. Gray: I raised this because the amending Act seems to contemplate the same type of appointment that was used for the members of the CLRB. I think the CLRB members are appointed by the Governor in Council on pleasure.

Mr. Reid: Then the idea seems to be that they would only be called in to act in appeal cases, but they would be members of the CLRB.

Mr. Gray: This applies to the regular members of the Board. They only come in to sit when there is work for them.

Mr. Lewis: If you are going to start arguing about the Bill, I would like to know how the gentlemen who suggested that Clause 1 might be deleted and the Appeal Board left as is can make that suggestion because the Appeal Board presently envisioned is to deal only with appeals relating to 4(a). You would have to amend the Appeal Board provisions, and you would then have appeals from all appearances before the Board.

The Chairman: I think, Mr. Lewis, this is just an area of speculation which they have indulged in this afternoon.

Mr. Lewis: I am speculating still further.

The Chairman: If there are no further questions...

Mr. Gray: I have another brief question. You have implied that we criticized the concept of a public interest board, at least in an appeal sense, and yet I notice on page 5 of your brief you say:

The general public interest must come first and the interests of the employees second.

Some of the employee groups may want to qualify that somewhat, but there seems to be some contradiction.

Mr. McNeill: Indeed, but what I was saying can be made perfectly clear. I was reacting to the words used either by Mr. Reid or Mr. Muir, I have forgotten which, to the effect that what was needed was an appellate division or an appeal panel which would reflect whatever changes there might be in the public interest rather than appeals. I have only suggested that in my opinion an appeal tribunal should not blow with the winds. There should be more steady factors.

Mr. Gray: You certainly put on the record in a most effective way the benefits accruing to employees through the present system of national bargaining. I suppose where people like myself may differ from you is that we question whether your interpretation of the effects of this proposed act will be adverse, even though we may both agree on the desirability of the present system of national bargaining. In fact, I am sure we both agree.

The Chairman: Is that all, Mr. Gray?

Mr. Gray: Yes, thank you very much.

The Chairman: Are there any further questions? Gentlemen, that winds up our hearings with The Railway Association. Thank you very much for appearing before us. It has been very helpful and informative.

There will be no meeting of any sort related to this activity this afternoon. Thank you.

APPENDIX II

THE RAILWAY ASSOCIATION
OF CANADASUBMISSION REGARDING
BILL C-186AN ACT TO AMEND THE
INDUSTRIAL RELATIONS AND
DISPUTES INVESTIGATION ACT

Montreal, P.Q., January 26, 1968

The legislation contained in Bill C-186 will permit, and indeed invite, decisions that will fragment existing national bargaining units into local, regional or geographic areas. The introduction of such procedures will, in the opinion of The Railway Association of Canada and its member railroads subject to federal jurisdiction, effectively destroy any possibility of rational collective bargaining on the railways and bring confusion and dissension into labour management relations in this industry, with consequent immeasurable hardship on the public at large and, in fact, the employees themselves.

There is no question that whenever matters come before the Canada Labour Relations Board involving the interests of more than one union there will be conflict. It is of critical importance in our system that the industry should not become a victim of inter-union conflict and that the public at large should not be victimized into hardship by it. It is essential, therefore, that legislation should not be directed in such a way as to encourage and broaden such conflicts.

The Railway Association knows of no reason or of any development or circumstances existing in labour relations in federal industries in general and the railway industry in particular that calls for or justifies changes of the kind contained in the Bill. Nor is it apparent to what extent, if any, the Government itself sees such a need. To the extent that labour-management relations in the federal field may have presented problems in the past decade, the Government, through the Prime Minister, took the sensible step of appointing a Task Force in 1966, "to examine industrial relations in Canada and to make recommendations to the Government with respect to public policy and labour legisla-

tion, and in such matters as it considers relevant to the public interest in industrial relations in Canada."

This Task Force has been engaged for over a year in a widespread study and investigation into these matters and will be expected to report to the Government not only as to the nature of the problem, if any, but its proper solution.

There has been no indication by any Minister of the Crown that the country is faced with critical or imminent problems calling for legislative changes or that public policy in labour matters require changes in the existing powers of the Canada Labour Relations Board.

The statement of the Prime Minister reported in Hansard of January 25th, 1967, would seem to dispose of any question as to any immediate or critical need for change in this area when he said,

"Mr. Speaker, an enquiry by experts is being undertaken at the present time into the field of labour legislation. Until they make their report to the Government it would be premature to say what might or might not be done in this field."

There will be interests prepared to argue that a literal reading of the Bill does not place any statutory duty on the Canada Labour Relations Board to fragment any particular national bargaining unit in favour of some dissident minority group and that, therefore, the objections being raised to the legislation are based on presumptions as to its application. However, the amendments would become the expressed will of Parliament and as such could be interpreted as a strong invitation amounting to a directive to the Board to certify unions on the basis of local, regional or other distinct geographic areas. If this is

not the case then it is difficult indeed for anyone to grasp the purpose of the legislation because there has been no example given as to where or when the present Board has not exercised its existing broad power both logically and judicially in the overall best interests of the majority of employees as well as the employers.

The Board, and the Department, have realized the validity of the principle that where a large number of employees are part of a well established system-wide unit and the operations in which they are engaged are an integral part of the system operation, the interests of the employees who may seek to be in a regional group would not be better served on the basis of such regional bargaining unit. On the other hand, if freedom of choice of minority groups is the issue, then one must expect compelling reasons to be advanced in support of such action of a nature that would override the chaotic conditions to which the employer and the public would be subjected if fragmentation of national bargaining units were to be permitted and indeed encouraged, as could be the case with the proposed legislation. No such reasons have been advanced by the proponents of Bill C-186.

It is fair to assume that to the extent the Government may support the Bill it is not its intention to create chaos in industrial relations in Canada. However, as this will be the result if the legislation is proceeded with, it will be helpful to review the consequences in the railway industry.

The railways would obviously be prime targets for fragmentation as evidenced by a recent application to secure certification of a group of the employees engaged at Canadian Pacific Angus Shops in Montreal and indications of applications to follow for other classes of Employees of Canadian National Railways and Canadian Pacific's Atlantic Region. It would take but a few of these fragmentations to incite various unions across the country to seek further fragmentations, purely on the basis of having secured the support of a group of employees located in a particular region or geographical area.

The possibility of regional bargaining units being carved out of existing national units in the railways with representation of these units being certified to numerous unions, among which disputes could exist on an inter-union basis, would expose the public to a multiplicity of railway strikes.

The experience of the railway strike in 1966, the Air Canada strike and the postal

strike satisfied Parliament and demonstrated to Canadians in general that in such cases the economic loss to the country and to the public generally was too great to be tolerated. It is clear, therefore, that our efforts should be directed at finding ways and means to reduce such work stoppages in industries or groups whose services are essential to orderly public life and not to the enactment of legislation which would clearly have the opposite effect.

The intolerable situation that would be created by the multiplicity of railway strikes would be further aggravated by the increased difficulties that would inevitably ensue in resolving the issues and terminating the work stoppages.

In situations where more than one group (with representation by more than one union) were on strike at the same time, each group would be reluctant to be the first to settle for fear that another group might receive something more. If one group did settle, another group would be reluctant to accept the same settlement as such union involved would find it politically embarrassing to accept the implication that some other union had been able to negotiate its settlement. This would be particularly so in situations where the union had made commitments in securing employee support prior to securing certification, to the effect that it would obtain better wages and working conditions than would be obtained by some other union. In other words, rash promises and union rivalry would more often than not preclude sensible pattern settlements. If, in order to achieve a settlement one group were to be granted something additional, labour unrest would result and this unrest could develop into wildcat strikes against the employer who would be charged with bad faith.

There would not only be a greater incidence of strikes in the railway industry but their duration would be increased because of the hopelessly confused and unsatisfactory environments under which those attempting to make settlements would be required to operate.

Any major railway is a system of integrated operations. For example, Canadian National and Canadian Pacific operate across the breadth of Canada. For efficient uninterrupted operation each geographic area with its many labour classifications is dependent upon all other geographic areas making up the system operation; and in turn the system operation is dependent upon the operations in each geographic area. It can be compared to a long

chain where every link must function simultaneously. Failure of any individual links would cause the chain to cease to function. In a railway operation, a cessation of work at any geographical location would seriously curtail and in many cases cause the system operation to cease entirely as traffic movement would be interrupted in both directions by the strikebound area.

It is neither conducive to stable labour relations nor orderly collective bargaining negotiations to subdivide a well-established unit of employees found by long years of experience to be an appropriate unit, into several units consisting of segments of the same craft or group of employees.

This is especially so when, in the final analysis, union rivalry will be encouraged with its inevitable adverse effects upon employers and the general public.

The general public interest must come first and the interests of the employees second. The fragmentation of system bargaining units in the railway industry and the inevitable result of increased strikes of increased duration is surely an intolerable future for the general public to contemplate.

The effects on the employees of fragmentation of national bargaining units will be no less serious.

Employees across the system (including non-striking groups) would suffer serious economic effects through lay-offs made necessary by cessation of railway operations in other regions.

Over the years, and particularly since 1962, much has been done on the railways to extend seniority rights of employees in the various groups. For example, seniority rules implemented in the past few years have extended seniority rights of most employee groups as far as a Region, of which there are four each on Canadian National and Canadian Pacific systems. This broad seniority is the most satisfactory means of providing the best job security for railway workers. It would be a retrograde step to now attempt to carve minority groups out of the whole and thereby reduce the value or perhaps even destroy the benefits that are inherent to the workers as a result of this existing broad seniority basis established over the years through successful collective bargaining. The Economic Council of Canada in its Declaration on Manpower Adjustments to Technological and Other Change (November 1966) states:

Paragraph 25, Page 9

"An important element in advance manpower planning is the use of transfers within the same firm to prevent loss of employment due to technological or other change. Effecting smooth transfers is highly dependent upon sound manpower management, since various aspects of adjustment may be involved: job training, mobility assistance, placement, transfer rights, and seniority practices."

Paragraph 26 Page 9

"... Seniority Rules may also hinder transfers, particularly when an entire operation or department is affected by technological change. Where the departmental seniority system is a serious hindrance to transfers, labour and management should seek a change to a form of plant-wide seniority. The problems attaching to seniority should be solved by revising the seniority system to allow workers greater mobility to take up new jobs."

Paragraph 27, Page 10

"In case of multi-plant companies, the problem of transfer may be alleviated by interplant mobility. Interplant transfers can, however, become complicated when different unions represent workers in different plants and where one union holds separate contracts for different plants. Problems may arise concerning transfer rights, integration of the transferees' seniority rights within the new work force, and seniority practices that would interfere with efficient operations. Consequently, agreements providing for interplant transfers must be carefully worked out. There must be a high degree of cooperation among different unions and between unions and management in order to modify the seniority structure and thus permit the necessary degree of flexibility."

The Economic Council has fully recognized the necessity of broad seniority groupings to protect the workers. The proposed legislation could destroy the basis for these advances. Where such groupings do not exist because of different union representation, the Council appeals for union co-operation to achieve it. It is disturbing to think that where seniority procedures have been established to meet

maximum job security, legislative action would be contemplated of a nature that would curtail and perhaps eventually destroy these broad seniority systems that have already been achieved.

In order to meet changing conditions in the railway industry, many transfers of work have been required in the past decade, such as less than carload freight handling being transferred to the express operations; and the closing of railway maintenance shops with the work being transferred to other locations. With the present national bargaining units, it has always been possible for management and labour representatives to meet and arrange for employees to transfer with the work, carrying their seniority to the new work location. It is of little value to an employee to transfer to a new location without any seniority rights. It would simply not be feasible to continue these very satisfactory arrangements if several unions were representing the groups at the different locations.

The railways have established job security funds out of which monetary benefits are paid to employees who may be temporarily laid off from the work force and for severance benefits for those who elect to terminate their service. A study is now underway to determine what further benefits can be supported by these funds, such as relocation expenses etc. Of course, exercising of seniority to work is a necessity for any job security plan to function and thus if a small minority group were to be carved out of the whole there could be no logical basis upon which they could continue to participate in these job security benefits.

Almost all railway employees as a group have health and welfare plans which provide for medical, hospital and surgical care, group insurance and weekly indemnity benefits for sickness and accident. This has meant that the cost of the protection is at a minimum and any breaking down into regional groups would result in higher premium rates for the same coverage and would presumably also result in rate increases for the larger group because of its lesser numbers resulting from fragmentation.

Both railways have an extensive apprentice training program for mechanics which involves movement of trainees from one location to another. Apprentices in the various trades receive training in main shops and then are given practical experience in coach yards, diesel shops and car repair shops.

Under the terms of the proposed Bill, each of the locations might be governed by a different jurisdictional agreement which would make it next to impossible to continue the existing procedures.

The foregoing demonstrates the multitude of disadvantages which would fall on railway employees as a whole, as well as the hopelessness of maintaining advantages they have already secured, as a consequence of fragmentation.

If, as has been suggested in the public press, there are railway employees in the Province of Quebec who, it is felt in some quarters, should be represented by a specific union that claims to have some special right or status to represent groups that are predominantly of French-Canadian origin, then it should not be overlooked that there are many French-Canadian railway workers who are members of existing railway unions and who are to be found in most, if not all, of the ten provinces. Many union leaders representing railway employees are of French descent; and French, English and workers of various other nationalities regularly communicate with each other, work side by side, attend union meetings together as well as conventions etc. Surely, this association and sharing of common interests, not only at specific geographical locations, but in the group as a whole throughout the country, is an appreciable contribution to unity. Fragmentation could destroy this and precipitate clashes which would be accompanied by much bitterness and conflict.

It is not intended that the foregoing should denote any preference by the members of The Railway Association of Canada of one union over another. On the contrary, if the union which would presume to fragment a national bargaining unit, would, instead, approach the Board attempting to receive certification for the entire railway system group there could be no cause for criticism.

The Association also wishes to comment upon that portion of Bill C-186 which provides for an appeal system. All cases where more than one union is involved are bound to be appealed and the decisions of the regular and experienced members of the Board would be subject to reversal by ad hoc tribunals. Such an appeal system serves only to reduce the Board itself to little more than an instrument of recommendation and would lead to countless delays. This would have most unfor-

tunate results, and further attests to the view that Bill C-186 constitutes bad legislation.

MEMBER LINES

Algoma Central Railway
Canadian National Railways
Canadian Pacific Railway Company
Chesapeake and Ohio Railway Company
Great Northern Railway Company
Midland Railway Company of Manitoba
New York Central Railroad
Norfolk and Western Railway Company
Northern Alberta Railways Company
Ontario Northland Railway
Pacific Great Eastern Railway Company
Quebec North Shore & Labrador Railway
Company

Toronto, Hamilton & Buffalo Railway
Company
White Pass and Yukon Route

ASSOCIATE MEMBERS

Arnaud Railway Company
British Columbia Hydro and Power
Authority
Canada and Gulf Terminal Railway
Canada Steamship Lines
Compagnie de Chemin de Fer Cartier
Cumberland Railway Company
Essex Terminal Railway
Grand Falls Central Railway
Napierville Junction Railway
Wabush Lake Railway

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68

STANDING COMMITTEE

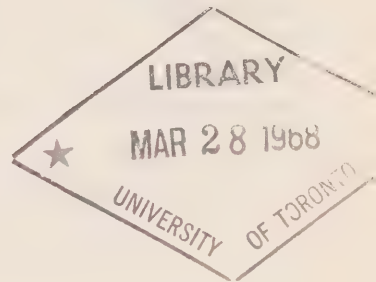
ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

PROCEEDINGS

No. 6



RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

WEDNESDAY, FEBRUARY 21, 1968

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,	Mr. MacInnis (<i>Cape</i>	Mr. Nielsen,
Mr. Boulanger,	<i>Breton South</i>)	Mr. Ormiston,
Mr. Clermont,	Mr. McCleave,	Mr. Patterson,
Mr. Duquet,	Mr. McKinley,	Mr. Racine,
Mr. Gray,	Mr. McNulty,	Mr. Régimbal,
Mr. Guay,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Hymmen,	<i>North and Victoria</i>),	Mr. Ricard,
Mr. Lewis,	Mr. Munro,	Mr. Stafford—(24).

Michael A. Measures,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

WEDNESDAY, February 21, 1968.

(9)

The Standing Committee on Labour and Employment met this day at 3:44 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Lewis—(9).

In attendance: From the Canadian Union of Public Employees: Mr. S. A. Little, National President; Mrs. Grace Hartman, National Secretary-Treasurer; Mr. Mario Hikl, Legislative Director; Mr. Francis K. Eady, Executive Assistant to the President; Mr. Norman Simon, Public Relations Director; Mr. Charles Bauer, Assistant to the Public Relations Director and Translator; *from the Public Service Alliance of Canada:* Mr. C. A. Edwards, President; Mr. J. K. Wyllie, National Vice-President; Mr. John McGuire, Research Director.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

Following a discussion of procedure, it was moved by Mr. Lewis, seconded by Mr. Barnett, that the Committee do now adjourn.

The motion was agreed to.

At 3:47 p.m. the Committee adjourned to the call of the Chair.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Wednesday, February 21, 1968

The Chairman: We have a quorum. Gentlemen, I point out that we have two groups of witnesses here, the Canadian Union of Public Employees and The Public Service Alliance of Canada. I also appreciate that there may be unusual circumstances, but I would like to proceed unless there is some opposition.

Mr. Lewis: Mr. Chairman, with apologies to the people who are here, who have been invited to be here and who have been inconvenienced by being here, we take the position that we are in the same situation in this Committee as is Parliament. It is our view that because we are a committee of Parliament—we are not independent; we are a committee of Parliament—it is our position that no business should take place in Parliament until Parliament has decided whether or not it has confidence in the government.

Without making a long speech, because it seems to me unnecessary, I may say, Mr. Chairman, that I am personally particularly angered by the kind of motion that was presented this afternoon in the House.

Mr. Guay: Order, order.

Mr. Lewis: Order, my aunt. I want to tell you one of the reasons I do not feel the slightest bit co-operative about this.

• 1545

Mr. Gray: We cannot have it both ways. Either we are entitled to sit, in which case we should get on with the business, or if we are not entitled to sit, then Mr. Lewis should not attempt to...

Mr. Lewis: If members of this Committee will stop being so touchy and so fearful and

let me finish, I will not take more than a minute or two and then they can talk. At least one should have courtesy here.

I said I do not feel at all co-operative and I want to make clear that one of the reasons is that instead of a motion of confidence in the government we got a motion of non-confidence in Parliament, and that is not the way to get co-operation from members of Parliament. Therefore I move, Mr. Chairman, that this committee now adjourn and rise, seconded by Mr. Barnett.

The Chairman: Is there any discussion of that motion?

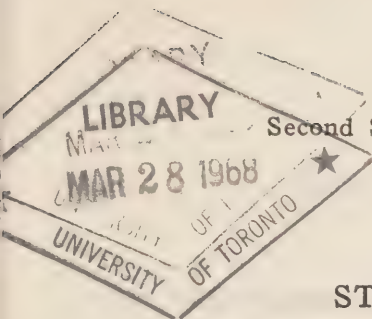
[Translation]

Mr. Emard: We can discuss a motion to adjourn in Committee. I am not in complete agreement with what Mr. Lewis has just said and what he said a while ago. I think, however, that in view of the importance of the two groups that we have before us this afternoon, it would certainly be a good thing for us to adjourn so that all members of the Committee might be in attendance.

I think that what they have to present is very important for the future of Bill C-186 and I am sure that we should wait until the situation has been settled and all members of the Committee are in attendance when these two groups appear before us, if they do not have any objection.

[English]

The Chairman: For different reasons there seems to be a consensus that we adjourn. There is no opposition to that. I extend my apologies as Chairman, ladies and gentlemen, for the inconvenience to you but I think you probably appreciate the circumstances we are in. Therefore, I declare the meeting adjourned.



HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

MONDAY, FEBRUARY 26, 1968

WITNESSES:

From the Association of Radio and Television Employees of Canada (ARTEC): Mr. Yvon Cherrier, National President; Mr. John C. Ward, Acting Executive Vice-President; *from the National Association of Broadcast Employees and Technicians (NABET):* Mr. Adrien Gagnier, Acting Director, Region 6; *from the Canadian Wire Service Guild:* Mr. George Frajkor, National Secretary.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,	Mr. MacInnis (<i>Cape</i>	Mr. Nielsen,
Mr. Boulanger,	<i>Breton South</i>),	Mr. Ormiston,
Mr. Clermont,	Mr. McCleave,	Mr. Patterson,
Mr. Duquet,	Mr. McKinley,	Mr. Racine,
Mr. Gray,	Mr. McNulty,	Mr. Régimbal,
Mr. Guay,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Hymmen,	<i>North and Victoria</i>),	Mr. Ricard,
Mr. Lewis,	Mr. Munro,	Mr. Stafford—(24).

Michael A. Measures,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, February 26, 1968.

(10)

The Standing Committee on Labour and Employment met this day at 8:12 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, Munro, Patterson, Racine, Reid, Stafford—(13).

Also present: Mr. Lachance, M.P.

In attendance: From the Association of Radio and Television Employees of Canada (ARTEC): Mr. Yvon Cherrier, National President; Mr. John C. Ward, Acting Executive Vice-President; from the National Association of Broadcast Employees and Technicians (NABET): Mr. Adrien Gagnier, Acting Director, Region 6; from the Canadian Wire Service Guild: Mr. Del Delmage, National President; Mr. George Frajkor, National Secretary; Mr. Jean-Marc Trépanier, Business Agent; from the Canadian Communications Workers Council: Mr. Gerald G. Hudson, National Representative.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced Mr. Gagnier, who, in turn, introduced others in attendance.

Mr. Ward gave a summary of the written brief of the group of trade unions in the broadcasting and communications fields in Canada, copies of the brief having been distributed to the members in English and French.

(Note: the brief is printed as Appendix III at the end of this Issue).

Mr. Ward was questioned.

Mr. Cherrier gave a statement and was questioned.

Mr. Gagnier gave a statement.

Messrs. Gagnier, Frajkor, Ward and Cherrier were questioned.

It was agreed that questioning would be continued tomorrow afternoon.

The Chairman thanked the representatives for their attendance.

At 10:05 p.m., the Committee adjourned to tomorrow, Tuesday, February 27th at 11:00 a.m.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Monday, February 26, 1968.

The Chairman: Gentlemen, I see a quorum. We have with us tonight representatives of a group of trade unions in the broadcasting and communications field, and all members of the Committee have had an opportunity to examine their brief.

I would like to welcome Mr. Adrien Gagnier and the other witnesses to our Committee hearing. Mr. Gagnier, the Acting Director, Region 6 of the National Association of Broadcast Employees and Technicians, will introduce the witnesses. We will sit until about 10 o'clock tonight.

Mr. Lewis: Not later than 10 o'clock.

The Chairman: That is right, not later than 10 o'clock.

[Translation]

Mr. Adrien Gagnier (Acting Director, Region 6, National Association of Broadcast Employees and Technicians (NABET) (AFL-CIO-CLC)): Mr. Chairman and members of the Committee, you have before you this evening a group of representatives of union employees from the CBC, as well as a representative of the communications unions. Among others, the Association of Radio and Television Employees of Canada, known as ARTEC, is present. This union represents approximately 2,400 employees of the CBC from coast to coast including nearly 900 in Québec, working in offices, administration, sales and programming. It also represents the employees of a private radio and television station in Manitoba. To represent this union we have Mr. John Ward, here to my right, who is the Executive Vice-President and, next to Mr. Ward, Mr. Yvon Cherrier, who is the National President. You also have my own union, which is the National Association of Broadcast Employees and Technicians, NABET. This union represents approximately 2,100 CBC employees from coast to coast, 650 of whom are in Québec, working as technicians or engineers. It also represents the employees of 29 private radio, broadcasting, film and communications enterprises in Canada.

• 2015

You also have the Canadian Wire Service Guild, Local 213 of the American Newspaper Guild. This union represents approximately 300 CBC employees in Canada from coast to coast employed in the news services, 90 of whom are to be found in Québec. It also represents the United Press International workers, UPI, throughout Canada.

At the far end of the table you have Mr. George Frajkor, who is the National Secretary of this union. There is also Mr. Jean-Marc Trépanier, who is the business agent. Finally, you have the Canadian Communications Workers Council. The Council groups the local Communications Workers of America unions, comprising approximately 3,800 workers in the communications and telephone industry throughout Canada. Their representative here is Mr. Gerald G. Hudson, who is the national representative. He is sitting here at the end of the table.

I now should like to ask Mr. John Ward to sum up the brief presented by the unions involved. It is an amalgamation of the proposals of all the radio, television and communications unions involved. Furthermore, as many of us are employees of the CBC, either now employed by the CBC or on leave without pay, and also as we are from Montreal and we believe that we are just as patriotic as other Quebecers, we shall give you the reasons for which we believe that the application to divide or fragment employees in Montreal from the rest of the country is for us neither desirable nor opportune. For the time being, I would like to ask Mr. John Ward to sum up for you the brief which undoubtedly you have all received already.

[English]

Mr. John C. Ward (Acting Executive Vice-President, Association of Radio and Television Employees of Canada (ARTEC) (CLC)): Mr. Chairman and members of the Committee, I think the best way to summarize our position on this most contentious issue is to briefly re-read the summary which we have placed at the end of our brief, to be

found on page 19 of the English version and page 21 of the French text. Perhaps this will open the door to questions on your part which we can clarify without repeating word for word what we have put into the brief.

We have summed up our position in 11 points. We say, first of all, that Bill No C-186 is dishonest. It is dishonest, in our view, because it does not say what it means. In our view it means that the government wishes to make it possible for the Confederation of National Trade Unions in the province of Quebec to gain certification for the French language employees of the CBC, nothing more and nothing less. Because the Bill does not say that, but goes far beyond that, and because the objective which I believe it represents is not at all apparent in the Bill itself, we maintain that the bill is dishonest. We have outlined in detail our stand on this particular point on pages 2 and 3 as well as on page 7 of the brief itself.

• 2020

Secondly, we feel that the Bill, if implemented in all of the ways which are possible under the present text, will undoubtedly regionalize present nation-wide bargaining in national enterprises, both public and private, and will thereby strike a blow at national unity. We have given some examples on pages 5 and 6 of the brief of the various permutations and combinations which would be permitted by this Bill, if it were enacted.

Thirdly, we feel that one of the effects of the Bill will be to nullify the strenuous efforts made over the years by government to promote industry-wide bargaining and by labour and management in particular to reach nation-wide wage parity, and again on page 6 we refer to this in some detail.

Fourthly, we feel that the Bill will set a precedent which must inevitably find its parallel in the fragmentation of the nation-wide bargaining units which at present are being set up under the Public Service Staff Relations Act and I commend to your attention the fact that the Act which governs the certification of public service is now being interpreted in such a way as to create national bargaining units, not to create regional bargaining units, and it is also noteworthy, I think, that in almost every one of these certification hearings under the PSSRA, the CNTU has intervened to contest these applications without success up to the present time.

We feel also that the enactment of this Bill will envenom the relations between labour and management in these nation-wide industries and it will certainly embitter and render more acute the rivalries between unions now active in the field and those which would be added, through fragmentation, and because of this developing chaos, as we have described it on page 6 of the brief, we think there is no doubt that the frustration which has been evident in Montreal in one particular unit of the CBC will be as nothing compared with the frustration, unrest and unsettled conditions that will prevail throughout the CBC and throughout all fragmented bargaining units if this Bill passes.

We feel also that the effect of the provision for an appeal board or an appeal division will not only lead to interminable delays—and we have gone into that in some detail on page 12 of the brief—but it will swamp the administrative machinery of the Labour Department in a flood of applications, hearings and appeals. Because of these delays we feel it will most certainly prejudice the rights of employees to effective representation by causing endless delays in the certification proceedings.

On page 14 of the brief—that is, the English version; I believe it is page 15 in the French version—we speak of the political dangers of having a system of panels in the manner which is proposed in the Bill and also we refer on page 11 to this same danger of political interference with the work of the board with respect to the appeal division. Both of these new divisions of the board will be susceptible to political interference.

• 2025

One of the basic principles in our opposition to this Bill is item number 10 which is that the Bill is based on the false premise that cultural and linguistic claims should take precedence over the economic factors that justify the maintenance of national bargaining units. This question of cultural linguistic claims is something we could talk about at great length, but one thing immediately obvious when you consider the claims of the CNTU to fragment national bargaining units on a linguistic or ethnic basis is that it is impractical; it cannot be done, because for one thing it does not take account of the many French-speaking employees of the CBC, with which we are familiar, in other parts of the country outside Quebec.

Neither does it take account of the considerable number of English-speaking employees of the CBC within the Province of Quebec and, indeed, of the specialized employees in the CBC International Service who work within the Province of Quebec and who have certain particular problems all of their own.

Finally, since this whole matter has reached a very high—or perhaps I should say low—level of politics, the question has become a political one. I think it is necessary to point out that this Bill will, in fact, if passed, implant separatism in the labour movement at a time when the policy of the federal government is one which by various means is intended to promote national unity, and in that sense we feel the Bill is a direct contradiction of the basic aims of this government. We go into that in some detail on page 10.

Now, perhaps it is worth recalling at the very beginning of this discussion that out of approximately 2500 employees in the Province of Quebec working for CBC who are eligible to belong to unions, the CNTU has never claimed to represent more than about 425 of these employees. I think this should be borne in mind to put the problem in its proper perspective. When the CNTU was put to the test in the one vote that was conducted among CBC employees by the Canada Labour Relations Board, the CNTU was unable to obtain more than 262 votes in the form of spoiled ballots and even if you...

Mr. Lewis: What was the case?

Mr. Ward: This was the second application by the CNTU to represent the production workers at the CBC in Montreal, Quebec.

Mr. Lewis: Was that the old IASTE unit?

Mr. Ward: That is the former IATSE unit and in that ballot, even though they were not on the ballot, they succeeded in making their voice heard, but only to the extent of 262 spoiled ballots out of the total of 700-odd in that unit, so even if you grant the CTU the approximately 426 adherents that it claimed within that bargaining unit at one time or another, this is far from being a majority of the employees at CBC in Montreal and certainly far from a majority of French-speaking workers in the Province of Quebec. I think, perhaps, this is a good time to stop since I am getting rather controversial.

Mr. Lewis: Mr. Chairman, could Mr. Ward or someone tell us the distribution of the CBC

employees in the Province of Quebec? How many of them are in Montreal and how many are in other locations?

Mr. Ward: Are you speaking of workers who may be eligible to belong to unions?

Mr. Lewis: Yes, non-management employees.

• 2030

Mr. Ward: We calculate there are approximately 2500 such people in the Province of Quebec; that is to say in Montreal, Quebec City, and Chicoutimi. Of those 2500 approximately 1600 are represented by the three CBC unions you have before you this evening. Approximately 725 belong to the production unit for which the CLRB today has certified the Canadian Union of Public Employees. That was the unit which was raided, which was organized by the CNTU and about which revolved the controversy over the fragmentation of that bargaining unit.

Mr. Lewis: You say the certification of CUPE has taken place?

Mr. Ward: It is announced this afternoon. The remainder, which I think numbers about 175 people, belongs to various small unions operating at CBC in Montreal.

The Chairman: Are there any other gentlemen who would like to say something before we get into the cross-examination? Who will it be, Mr. Cherrier? Just to refresh your memories, gentlemen, Mr. Chevrier is the National President of the Association of Radio and Television Employees of Canada. Mr. Cherrier?

[Translation]

Mr. Yvon Cherrier (National President, Association of Radio and Television Employees of Canada (ARTEC) (CLC)): Mr. Chairman, members of the Committee, my dear colleagues; at the outset I must say that first of all I am a French Canadian, that I am employed by the CBC and have been for 16 years and that I am national president of the trade union which represents most employees of the CBC. I represent 2,400 members, two-thirds of whom are English-speaking.

Even if I am in the category of minorities, I have never had any objections from my colleagues in other provinces. I have now been dealing with trade unionism at the CBC for 7½ years.

Some of my colleagues who are here at the table will recall that in 1960 we had meetings to establish a certain unity within our different associations with respect to grievances, negotiations and discussions of our fringe benefits with the Corporation. Naturally when we learned that Bill C-186 was going to destroy the work that had gone on for all these years, we became somewhat skeptical as to what advantage this could bring to unions' members at the CBC, and particularly in Montréal, which is the sector involved.

We have problems at the present time. We are adults here and we can discuss these problems. The problem is one which concerns such a large body as the CBC, having a great many workers who do not all belong to the same trade. If we had to be fragmented into even smaller units than we are at the present time and if, in addition, the barrier of French and English languages were to be widened, I think that instead of acting on behalf of the CBC employees that I represent I would be working to their detriment, and for several reasons.

I am not a technician in the proper sense of the word and surely I would not want to correct or paraphrase the brief that has been presented to you. However, on several occasions in the course of my duties I have had to face the corporation about problems which were occurring in Toronto and which, for technical reasons or purposes of internal administrative policy, were not in force in Montréal. Through collective bargaining and the grievance procedure we were able to defend our colleagues in Toronto by applying the discrimination clause. This occurred in reverse recently during an evaluation when the drivers in Montréal obtained a substantial wage increase thanks to their colleagues in Toronto. Since we are speaking of bargaining powers, you know that the CBC is no longer at the stage of the strike which occurred in 1959.

• 2035

In 1959 we had an example of what fragmentation could do when only the French network was on strike for 69 days. What did it solve exactly? Since we are speaking of the power of collective bargaining, I sincerely believe that we can, under the present conditions, establish economic criteria throughout Canada and see that the corporation applies them fully and completely.

We should also recall the establishment of the Broadcasting Commission, which was suc-

ceeded by the Corporation which now exists. What was the final objective in establishing the commission? It was to unite Canadians throughout the country. We have carried out some surveys among our membership in Montréal and I can assure you that, far from the majority, just a small percentage of the membership seemed to be interested in joining the CNTU. I can therefore very honestly state at the present time that very few of our members in Montréal would be interested in joining the CNTU. I will be very willing to answer any questions you might want to ask.

Mr. Guay: Did you say that none of your members would be interested in joining the CNTU?

Mr. Cherrier: The majority in Montréal would not be interested in joining the CNTU.

Mr. Guay: But the last vote that took place, how do you analyze it?

Mr. Cherrier: There was no vote taken within our union. When the CNTU tried to recruit production members (IATSE) in Montréal, it also attempted a defamation campaign against our union and tried to sign up some members. But the total number of members they signed up in Montréal in the ARTEC bargaining unit was 35.

[English]

The Chairman: Thank you, Mr. Cherrier. I think Mr. Gagnier wanted to say something.

[Translation]

Mr. Gagnier: Mr. Chairman, members of the Committee, I too have been a CBC employee for nearly 15 years. However, at the present time I am on leave without pay in order to do union work. In fact, I was the founder of the trade union movement at the CBC. There is one point with which I should like to deal. Up to now we have spoken of the balance of the disadvantages of fragmentation of the bargaining units. I am certain that the majority of you certainly are thinking of, or have in mind, the question of freedom for workers to join the union of their choice. As you know, this is the principal argument used by the CNTU in the Province of Quebec. It is a very important argument.

In fact, the trade union movement has always been the defender of freedom for workers—I think we have to face up to this argument and be able to answer it. Personally, I had to face it during the CNTU's drive in Montreal as I was the president of the local

section of technicians in Montreal. If I am here before you today, it is because I think we found that the grievances or the complaints of the CNTU were unfounded.

I shall explain to you how we arrived at this conclusion. We are not jurists or great philosophers; however, we do have a certain experience in the problems. As union representatives, each day members come to us with so-called grievances. They say, "I have been a victim of injustice and I want the union to defend me". We know that the fact of crying out that you have been a victim of injustice does not in itself prove that injustice exists. The first thing we do when someone complains of being a victim of injustice, of having his freedom infringed upon, is to check the facts. There are two ways of doing this.

The first way, for a trade union, is to check the collective agreement to see whether the agreement has been violated. In this case, of course, if the collective agreement has been violated there has been an injustice committed and a formal grievance is filed. However, as I think most of you know, there may be injustice without any violation of the regulations if the case was foreseen by the collective agreement or if the employee has been the victim of discrimination. Could this be the case with the employees in Montreal who claim to be victims because there has been a refusal to give them a trade union of their very own? If you wish, we shall examine together the two possible employee grievances: either violation of their freedom, as we have said, or discrimination.

• 2040

From a legal point of view you all know, and I had to learn it from the beginning when I founded the trade union movement at the CBC fifteen years ago, the CLRB rendered a decision on the petition submitted by an international union affiliated to the all-Canadian union to the effect that they could not fragment the bargaining units at the CBC.

I am sure that you will agree with me that when this decision was reached fifteen years ago certainly no one thought that this same position would have to be adopted some day in the future to refuse the same thing to the CNTU fifteen years later, and later the CLRB upheld its decision.

Incidentally, I think it would be a good thing to say that I had been at the CBC barely a year and a half, I was unknown because I

had been employed in Montreal and I had never met any employees outside of the Montreal area, and yet we did succeed in organizing our trade union on a national basis. That is to say, although we were the ones who started the idea, barely a few months after the start of a trade union by French Canadians in Montreal we had a majority of almost 90 per cent in Halifax and almost the same thing in Vancouver.

The idea came from a French Canadian in Quebec, and it seems that it was not so bad after all because all our English-speaking colleagues in Halifax and Vancouver went along with us. This was confirmed by ARTEC, Mr. Wilcox and Mr. Belanger of Montreal. Thus when there is a good idea that comes out of Montreal there is no problem getting it accepted throughout the country.

They may claim that in Canada legislation leans towards the majority when, in fact, the employees can be victims of discrimination or injustice. As I have said, I also had to get an opinion and see just where truth was hiding. So, let us take an objective arbitrator outside of Canada but one that is competent and recognized, the International Labour Organization. The ILO a few years ago published a manual entitled "Trade Union Freedom", in which we find the notion of a most representative organization, and I quote:

"It therefore seems indispensable to take into account this notion of the character of representation in the examination of the problem of free choice of professional organization, guaranteed to workers and employers by the convention on syndical freedom and the protection of union rights".

Here by "character of representation" they mean the organizations which effectively represent all employees.

For instance, in England there is one great trade union for the employees of one industry; there is but one for the coal mining industry and only one for transportation.

Here in Canada the representative organization would be the organization which might represent the employees of a Canadian employer. Such an organization should be representative throughout Canada and here again the employees have a choice. First of all, there are at least four unions within CBC which the employees can join if they are not satisfied with their own union. And there are

even unions outside the CBC which are also Canadian unions, so the employees do have a choice.

• 2045

The claim is made that there is in fact no choice because they are all unions which are affiliated with the Canadian Labour Congress. Let us go again to Trade Union Freedom published by the ILO.

In countries where the trade union movement is organized on a unitary basis, the compulsory joining of a union often appears as being a normal and legitimate counterpart for the advantages which all trade unionists derive from the trade union movement.

In other words, in England a man working in the transportation industry or the coal mines, as it was previously, did not have any other choice but to join that particular union. But if the law permitted, as it permits in Canada, any other trade union to establish itself, there would be no violation of freedom. The employee would have the freedom to join this union and if he were not happy, then the employees could always form another union.

Here in Canada, to my knowledge, never has there been any interference on the part of the government, the CLRB or any others, to prevent the CNTU from organizing CBC employees in the most representative way. This applies throughout Canada. Furthermore, I can personally attest to this because I was a CBC employee in Montreal without a union, and by my own weak means, with my colleagues, I did succeed in establishing a union throughout Canada. I think it might be a little humorous to say that the CNTU with its great organization could not do what I and other employees did throughout Canada. It seems to me then, from a legal point of view, as much from the CLRB point of view as from the point of view of the ILO, with regard to freedom of workers, there has certainly been no violation of the freedom of the CBC workers. You might perhaps tell me, and this is the second alternative, that there is not violation, that nothing illegal was done, but all the same there is discrimination between employees. Their rights are being violated. This is what the ILO says in this regard:

Trade union freedom is indispensable to collective bargaining. Nevertheless, the fact of allowing workers and employers full freedom in this regard does not

necessarily lead to the establishment of powerful trade union organizations and does not of itself give any positive right to collective bargaining.

• 2050

In other words, if we want to be realistic about it, very pragmatic and see things as they really are, it is not sufficient to obtain a right; we must also have the power, and I can give you a very recent example very close to us in Quebec in the case of the employees of Seven-Up, the soft drink firm. The Quebec Labour Relations Board has officially recognized one union at least three times and has at least seven times ordered the employer to bargain. The employees have never been able to bargain because they have no power. They have the right to do so, which has been sustained countless times by the government, but they have no power, and this is what right without power leads to.

It is claimed in the CBC that the employee in Montreal would have this right. This might perhaps be confirmed in theory, if one did have the experience to know better. We mentioned it a little while ago:—there was one experience. In 1959 all the employees of the unions in Montreal and the artists united to make a common attack. This is one thing you will probably never see again. The problem was to be solved by going out on strike for a weekend. It was settled after three months. Those who have some memory will recall the editorials written in *Le Devoir* about the strike and in the book about that strike of 1959, which said that the problem was settled in Montreal when in fact it became a national problem.

These are the steps that I and the members of my union took to convince ourselves that it is not desirable, far from it; rather, it would be a catastrophe if we were to divide the CBC employees in Montreal from the employees of the rest of the country. I might continue for a long time because, as I have mentioned, I have been there for 15 years. I will spare you all the details but I remain at your disposal to answer any questions you might like to ask me. Thank you, Mr. Chairman.

[English]

The Chairman: Thank you, Mr. Gagnier. Well, gentlemen, we have an hour and ten minutes. Who would like to begin? Mr. Gray?

Mr. Gray: I would like to begin. They have, I think, painted a very complete picture of

the harmful effects of possible fragmentation in their industry and I think this is something which we all have to take very seriously. However, I would be interested to know if they can demonstrate anything in proposed Bill C-186 that definitely states that the type of fragmentation they fear will automatically occur.

Mr. Gagnier: Frankly, we have to admit there is nothing in the law that obliges the Board to certify a unit or a fraction of the employees and that is why we do not understand the reasons for introducing this legislation. The present Act provides that the CLRB can certify all sorts of units, so they already have the complete latitude to do so.

Mr. Gray: Can it not be argued, even if Bill C-186 is adopted in its entirety, that the new appeal section of the Board would follow the very same criteria, arising out of the various economic and geographical realities which you pointed out in your brief in the same way as the Board is doing at the present time?

Mr. Gagnier: I believe it was pointed out—not only by us but by others—by Claude Ryan of *Le Devoir*, for instance, that it would be illogical to put some sort of a spare board above the Board and that it would open the way to many of the problems we stress in our brief. Frankly, we cannot understand the reasoning. As you know, the labour movement has always taken exception to the delays of the Labour Board, because we know from experience that when employees are being organized and you are dealing with an entirely new employer, time limits are essential. Also, the employer has sufficient money and people to make these appeals which cause this sort of delay and which could destroy the union. We do not want it destroyed.

• 2055

Mr. Gray: I think I would agree with you about the harmful effects of delays. Would you be less opposed to the appeal division if the proposed law were to be amended to provide that the appeal must be disposed of within a certain period of time?

Mr. George Frajkor (National Secretary, Canadian Wire Service Guild, Local 213, American Newspaper Guild (AFL-CIO-CLC)): I think the basic objection Mr. Gray, is the provision for an appeal. Why should there simply not be one final authority in connection with decisions on labour matters, as there is almost everywhere else?

In response to another part of your question, what is there in the Bill that makes us think it would allow the CNTU to fragment national bargaining units, I think we are going on assumptions. The law does not specifically say that the Board is obliged but when the CNTU's own organs said that this was the law that could save the CNTU, and when the Labour Minister said in the House that this law could make it easier for the CNTU to take over a certain section of CBC production employees, we cannot help but believe that some of what has been said is true.

Mr. Gray: I do not recall any of the ministers using those precise terms. In your brief you make the point that in effect it would be easy under the terms of the present law for this to happen but that the Board, using the criteria established over the years, has not seen fit to grant this type of application.

I will turn to another point. On page 11, the section headed "The Political Dangers", you express the fear that members of the appeal board, which are described in the act as "representative of the general public," will reflect a political mandate. Let us look at the current method of appointment of the present Chairman and Vice-Chairman of the Board. They are not described in the present act as being representative of either labour or management. Are you suggesting that at the present time the Chairman and Vice-Chairman reflect a political mandate?

Mr. Ward: May I answer that, Mr. Chairman?

The Chairman: Yes, Mr. Ward.

Mr. Ward: I do not think we suggested that at all, and I would not want that impression to be left. We suggested that in the context of this Bill, and after statements by both ministers and Members of Parliament supporting this Bill, the whole purpose of the Bill—the reference to the panels and the reference to the appeal board—is to introduce an element of political compulsion into the operations of the Board.

Mr. Gray: What does the phrase "political compulsion" mean? Could you define it?

Mr. Ward: By that I mean a form of encouragement or invitation to the Board to act in conformity with the aims stated by the Minister of Labour as well as some other ministers and members in the debate on December 4.

Mr. Gray: First of all, let me ask you the same question I asked somebody else the other day. Is there any sanction in the proposed law that could be imposed on those who do not follow what you suggested as being a certain "invitation"? Can they be put in jail, fined or anything like that?

Mr. Ward: No, I do not believe so. Mr. Chairman, I do not think it is possible for any of us to say that any particular national bargaining unit will be fragmented as a result of this Bill. All we are suggesting to you is that the tenor of the statements made on the government side of the House by the proponents of this Bill lead us to believe that the government's purpose in introducing the Bill is to encourage the fragmentation of national bargaining units.

Mr. Gray: Of course, you will not be surprised if I differ with you on the interpretation of the remarks of those members who spoke on the debate on the resolution of this Bill? Let me point out something else to you, and I think the law is clear on this point. Neither courts nor boards when interpreting a statute such as this are entitled to look at the debates which took place in Parliament, but only at the words of the statute itself. Only through the statute, if it is passed, can the will of Parliament be expressed. It is not through the words of anyone in Parliament.

Mr. Ward: Mr. Chairman, if you look at the new clauses which are to be inserted in the Act you will realize that the possibilities which were implicit prior to the introduction of this Bill are now explicit, and if that does not constitute a suggestion to the Board that it act in accordance with those new clauses, then I do not know what it is.

• 2100

Mr. Gray: But at most it is merely a suggestion. It is not something which they have to follow on pain of some penalty.

Mr. Ward: We suggest that if it is done it would be bad for the labour movement.

Mr. Gray: Let me return to my original questions in this area. If the words "representative of the general public" were deleted from the clauses of the proposed Bill, would this remove the fear you have expressed about an alleged political mandate?

Mr. Frajkor: Sir, I think it would make them worse. At least you have made a qualification. The choice of who is representa-

tive of the general public varies from person to person. I may think of someone as representing the general public whom you would not consider so.

Mr. Gray: But does this problem not arise any time any government appoints anybody to any type of body where the legislation does not specifically state the particular qualifications?

Mr. Frajkor: It does, sir, but in effect we are objecting to the establishment of any appeal board at all.

Mr. Gray: But I am certainly entitled to question the particular arguments you are advancing. You put forward this brief, so you cannot abandon the particular arguments you put forward by saying that you simply object to an appeal board. You said it would be worse if the words "representative of the general public" were taken out, yet the section in the present Industrial Relations and Disputes Investigation Act which deals with the appointment of the Chairman and Vice-Chairmen merely says that they are appointed by the Governor in Council on pleasure. There is no reference to the general public. Are you suggesting there is something wrong with the present method of appointment of the Chairman and Vice-Chairmen of the Canada Labour Relations Board?

Mr. Frajkor: No, I am not, sir. I am suggesting that there is something wrong with the appointment of an appeal board to overrule an already existing body which has many powers.

Mr. Gray: Of course, this is a general argument with which we will have to deal, but I am concerned that in effect you are tarring in advance with a particular type of brush the people who will be appointed if this Act is accepted by Parliament. I think those who will be appointed by this government or any other government will be no less qualified and acceptable than those who are presently the Chairman and Vice-Chairman and who are not obliged to be selected under the Act as representative of any interest group.

Mr. Frajkor: Perhaps we have more faith in them because of actions they have taken in the past than our having reason to believe that they are doing a good job. We have no knowledge of who will be appointed in the future or which government will be in power at the time; nor do we think there is any necessity for their being appointed anyway.

Mr. Gray: Are you suggesting that the present members of the Board should serve until—and I hope it will be for a long time—they pass away from this vale of tears?

Mr. Frajkor: Let me just say that I have no reason to accuse them at this time of any kind of political bias or of political appointment, to my knowledge.

Mr. Gray: Well, why should...

Mr. Lewis: He is less worried about the help he knows than about the one he does not know.

Mr. Frajkor: Exactly.

Mr. Gray: Is it not rather unfair to accuse of political bias people whose identity you do not even know and who may turn out to be no less acceptable than are the present chairman and vice-chairman?

Mr. Frajkor: Sir, we have a natural suspicion of the appointment of an appeal board to hear appeals from a body which we think is doing a good job and does not need to be overruled by an appeal board. We cannot help but suspect the motives behind the desire to appoint an appeal board over this present body.

We have had experience with this body and we trust it. We do not see why another body should be set up to overrule, or underwrite, its decisions.

Mr. Gray: It is doing exactly what you want?

Mr. Frajkor: Perhaps; in our experience it seems to have been doing a good job. We are adhering to our point of view. I am not here to argue the point of view of anyone but our own.

Mr. Gray: Yet you appear to object in your brief to the CNTU's having the right to argue its point of view.

Mr. Frajkor: We are not objecting to their right to argue. They have that. If they wish to present a brief to this Committee stating the opposite point of view I am sure they can.

Mr. Gray: As they have done. Let us look at page 14 for a moment, in the section headed: "The Establishment of Panels".

• 2105

You express the fear that if the panel system were adopted there would be only three people on the panel—a labour representative

who, you dare say, would be a CNTU representative—and no CLC representative at all. Is it not just as likely that the panel would be comprised of two labour representatives and two management representatives, with one of the labour representatives a CLC individual?

Mr. Ward: It is possible, Mr. Chairman, but there is no guarantee of it.

Mr. Gray: Yes. There is no guarantee either way.

It would appear from what you say on pages 14 and 15 that you feel that the present situation in which, in effect, three of the people on the Board may reflect one point of view and only one may reflect another, is quite satisfactory. Are you saying that the Board in its present form is quite satisfactory?

Mr. Ward: Excuse me; may I ask what particular paragraph you are referring to?

Mr. Gray: I am looking generally at pages 14 and 15. On page 15 you have a section headed: "A Grave Reflection on the Board", and you say

It so happens that the CLC, with eight times as many members as the CNTU, has three times as many representatives on the Board (if one includes the railway nominee within the CLC representation).

It is obvious you consider this quite satisfactory. In effect, you are saying that it is quite satisfactory to have a representation of three to one, but in your comment on panels on page 14 you object to a representation you fear might be one to zero. I do not know whether or not you follow me, but...

Mr. Ward: I do not quite see the...

Mr. Gray: Well, you complain that there is a possibility, if the panel set-up were adopted, that there would be only one labour representative, who could be a CNTU representative, and therefore there would be no CLC representative. You fear this, and I can understand your point of view.

At the same time, you urge upon us the acceptability of the present system which means rather three to one than the one to zero you fear on the proposed panel system.

Mr. Ward: And if you go by numerical proportion it is something like eight to one.

Mr. Gray: Yes.

Mr. Ward: I guess you have overlooked the point we make in the succeeding paragraph where we state our belief that, under the present operation of the Board, and with the independence it enjoys, without the proposed additions to the panel, the labour members of the Board represent all of the workers and the employer members represent the interests of all the employers. We believe, in fact, that the three people appointed from CLC affiliates are there to represent the interests of the CLC, or that they do, in fact, represent the interests of the CLC.

Mr. Gray: If I may say so with respect, are you not being rather contradictory? You start by referring to people who are representatives of workers as a whole and not of particular union groups, and then later on, on page 15, you talk about the potential right of the CLC to have on the Board more representatives than the CNTU?

Mr. Ward: We mentioned that to show how ridiculous it was; that if we were to accept the argument that the explicit purpose of the labour representatives being appointed is that they represent their affiliated members, then there should be a greater preponderance of representatives of CLC affiliates. It is the proof that they are not there for that purpose.

Mr. Gray: What troubles me about this is that you feel that the CLC representatives are representing workers generally, but that, in effect, the CNTU representatives are to represent only the CNTU.

Mr. Ward: Not at all.

Mr. Gray: I think this is implicit in your argument on pages 14 and 15.

Mr. Barnett: You are reading it upside down.

Mr. Gray: It depends on the point of view. I could make the same suggestion.

Mr. Lewis: Mr. Gray can say that that is his reading of the brief, but it is not fair to impute to the writers of the brief that that is what they intended.

Mr. Gray: I could ask them to be willing to grant to the authors of Bill C-186 the same thing.

• 2110

You have imputed certain motives and intentions to the authors of Bill C-186. There are those like myself, who agree with you on

the desirability of system-wide bargaining, and so on, and there are others who are convinced that the intentions of those who argue the effects of this bill are those that you have described in your brief.

Mr. Ward: Mr. Chairman, I do not want to prolong what seems to be a rather pointless exchange, but to be fair to our position on this bill I wish to quote one excerpt from Hansard of December 4, 1967, at page 5003, where Mr. Marchand stated:

... to say that we would destroy the objective character of the board, just because we want, in some cases, to balance out the board in order to prevent any wrongdoing, is just too much.

... Mr. Chairman, to talk about a subterfuge, is really to go a little far. In fact, when a labour union, which is not represented on the board or has a minority representation, comes before this body and sees its case lost from the beginning or cannot obtain justice, because of the interplay of interests and the natural tendencies and concepts of the representatives, I think that any impartial and fair person should be ready to reconsider the structure of this board...

and so on. We feel that there is no doubt that statements such as this, of which there are many, indicate that the government does not have confidence in the impartiality of the present representatives on the Board. We take strong issue with that suggestion.

Mr. Gray: That you are entitled to do. I was merely attempting to point out that it appeared to me—and perhaps you did not intend this—that you were doubting the possibility of impartiality by CNTU representatives, but at the same time putting forward very strongly not only the possibility, but the actual existence, of the impartiality of the CLC representatives.

Mr. Frajkor: Sir, I believe it is you who are arguing that there is something noxious about having a Board loaded three to one with representatives of one centre, and that there should be something to counter-balance this situation.

I should not say you personally; I am sorry. I mean the authors of this bill seem to infer that there is something wrong with having representatives of one centre outnumber the representatives of the other. We are not say-

ing that is wrong at all. We would like to see the Board continue as it is.

Mr. Gray: Just to complete this, did you not see the possibility of the CNTU's feeling just the opposite?

Mr. Frajkor: Sir, I am sure they have made that point of view felt.

Mr. Gray: Would you be willing to have a Board with three management representatives and one labour representative?

Mr. Frajkor: I would think not.

Mr. Gray: In a conflict between labour and management does not the management group make the same argument that you are making here?

Mr. Frajkor: Labour and management are directly opposed to each other by nature. I doubt that a good management man can think in terms of what is good for the workers, or that a good labour man should think in terms of what is good for management. We have two union groups here and I do think that one union man belonging to the CNTU can think in terms of what is good for the workers just as well as the union man for the CLC.

Mr. Gray: You also admit the possibility that with the best of intentions and motives both could come to vastly different conclusions.

Mr. Frajkor: I would think that they could.

The Chairman: Mr. Guay.

[Translation]

Mr. Guay: I have one question first of all. In the first paragraph of the summary of your brief you say that the Bill does not say what it means. In your opinion, what does it mean? What does it wish to say?

Mr. Gagnier: In my opinion—and I was going to bring this to your attention—as regards the discussion we just had in this Committee, a good part of this discussion might perhaps lead to misinterpretation. In other words, we are discussing a great many things which depend on one matter which is completely hidden away at the bottom of the problem.

The problem, in reality, consists in knowing whether we should allow the employees from the Province of Québec to have separate unions when these employees come under a national employer. This is the essential ques-

tion. That is why it seems to me that when we say that the Bill does not say what it means, it is because we believe that the Bill in fact was brought in to settle this particular problem, yet we are in fact speaking of everything except this particular problem. This is why we say that on the surface the Bill is not honest. It does not say what it means.

• 2115

Mr. Guay: But in your opinion—I am asking you the question again because your answer does not quite satisfy me—what does it change in the presently existing legislation?

Mr. Gagnier: First of all, concerning the possibility of the Canada Labour Relations Board to decide on the type of bargaining unit, as we have said, under the present legislation the CLRB has all the latitude required to determine the type of bargaining unit it deems appropriate.

On the other hand, as we pointed out a little while ago—my colleague did—when later, through a Bill, you interpret this right in a certain way, you then give it an interpretation that it did not have before. This is almost a directive that you are giving. Does this answer your question?

Mr. Guay: Yes, but without taking a stand personally I would say this: those who are opposed to the Bill always say that we are going to force them. You seem to think it will be an obligation whereas it is simply a clarification. We are simply saying that you can present your applications and clarify the situation which existed before.

This is how I see the Bill: the situation existed, you said so yourself a little while ago, and now we have made it a little more specific. It is true that in the correspondence I receive it seems that there is always a question of injustice and dishonesty, and people say that this is going to have a tremendous influence, that it is going to divide all the negotiations in the Province of Quebec and throughout Canada.

Mr. Gagnier: As I said a little while ago, I have been dealing with the Canada Labour Relations Board for a long time now. If, on the one hand, the law allows the CLRB to certify the type of unit that they think appropriate, the fact remains that the CLRB so far has never certified a unit we might call a cultural or linguistic unit. It seems now that in this Bill you want to introduce this political dimension to the IRDI Act and we claim

it is a false problem. We the trade unions are not St-Jean Baptiste or Richelieu Societies. We are organizations to promote the progress and advancement of our members from the point of view of wages and working conditions.

Mr. Guay: A little while ago you said in the second and third paragraph of your summary that you did invoke national unity from the sentimental point of view. You want to save national unity. I remember that when the CBC Bill was before the House the section with which we had the greatest difficulty was the acceptance of the fact that the CBC should promote national unity. It is all right to say you are not using St-Jean Baptiste tactics but do not say then that you are trying to save national unity.

Mr. Gagnier: Perhaps for us it is in the context of the trade union movement, of worker solidarity. Here we mean in particular unity of job opportunity, unity of working conditions and unity of wages as much as possible. For instance, I am completely convinced that if we, the technicians of the CBC in Montreal, had established a separate union from that of Toronto and at the same time as Toronto, today we would probably have followed the normal line of things and, as a technician in Montreal, I would be earning 20 per cent less than my colleague who was doing the same thing as I in Toronto and who is not even bilingual.

• 2120

Mr. Cherrier: Mr. Guay, I would like to ask you one question. It is not perhaps too specific but I think it was mentioned that only the CBC would be affected by this Bill. There was some mention of this, was there not?

Mr. Guay: No, never. If you can find the quotation I would be very happy to see it.

Mr. Cherrier: I am only asking the question. I was not there, but I know it was reported in the press at any rate.

Mr. Guay: No, no, I do not think so.

Mr. Ward: As I said, I do not have the minutes of proceedings and evidence of your Committee but I do have a news item from the *Canadian Press* dated February 9, which reads as follows:

[English]

David Lewis accused the Minister of misleading the Commons Labour Com-

mittee with a statement that the labour bill would not lead to a break-up of nationwide railway bargaining units. "Is it not your intention to let the CNTU take over the Angus Shops?", he demanded. "No" Mr. Nicholson replied, but he said one of the effects might be to let the CNTU obtain bargaining rights for CBC production workers in Quebec who now are part of a national bargaining group.

[Translation]

I do not know whether this news item is correct, but if it is it is the first time...

Mr. Lewis: To my knowledge.

Mr. Guay: I think this is one of Mr. Lewis' many statements.

Mr. Lachance: He is very enthusiastic about this bill!

Mr. Lewis: Here it is.

Mr. Cherrier: At any rate, if it is true, what does the CBC have that the others do not have or what does it not have that the others do have?

Mr. Guay: I think...

Mr. Lachance: A problem.

Mr. Cherrier: I agree. Could you localize the problem for us? I have been with the CBC for 16 years. What is the problem?

Mr. Guay: The problem...

Mr. Cherrier: It is all well and good to say there is a problem, but at least describe it.

Mr. Guay: I am not here to answer your questions. You are here to answer mine.

Mr. Cherrier: I agree.

Mr. Guay: Let us say that if I look at the CBC problem I see that in Montreal when a vote asking for certification by the CNTU takes place it means that there is a majority of the employees of the CBC in Montreal who seem to want to join the CNTU and who have applied for certification?

• 2125

Mr. Cherrier: What about the 67 per cent for CUPE?

Mr. Guay: The plotting between the various unions is not my problem.

Mr. Cherrier: It is not a question of plotting. For two years and a half now these

employees have been without a union and some of them even signed to join four different ones, so where is the proof that CNTU is the one they really wanted to join?

Mr. Guay: It is not only a question of the CNTU. When the application was made a request similar to yours was made, and I ask where is your proof? It is the same thing, I can ask you the same question. You ask for the proof of the CNTU; I can also ask where is your proof? This is what I am asking.

Mr. Frajkor: The proof is that 67 per cent voted for the CUPE.

Mr. Guay: And how had they voted for the CNTU?

Mr. Frajkor: Fifty-seven per cent.

Mr. Guay: You say that the 57 per cent is not valid for the CNTU. If you are not going to have faith in one application, then you cannot have faith in the other, even if it were 90 per cent for one and 67 per cent for the other.

Mr. Frajkor: Mr. Guay, recently Mr. Gray asked us why it was that we feel the Bill does not say what it means. Your attitude and your questions give us a great deal of reason to think that the Bill now before us says a great many other things because you yourself brought up the question of the CNTU and the problems at the CBC. We had not spoken of this problem before except to illustrate the problem. We were attacking the Bill. As soon as we start to discuss this act you bring in the CNTU in Montreal and fragmentation of the bargaining units. Can we take it simply in the context of our time? Why is it necessary at this time to pass an act like this, since right now there is a struggle going on between the CNTU and the other unions in Montréal?

Mr. Guay: I am not positive, but I think that in your brief to the Committee you mention the CNTU on almost every page.

Mr. Frajkor: I now see that we had very good reason to believe that this Bill was in favour of the CNTU.

Mr. Guay: Yes. We are using the same arguments as you.

Mr. Frajkor: And now I have the proof. One moment ago we questioned...

[English]

The Chairman: Gentlemen, this is a very interesting exchange but we have 35 minutes and we have about four more questioners.

[Translation]

Mr. Guay: One last question. At the beginning of my remarks a little while ago I said that I had taken no stand, that I was not here to take a stand. I wanted arguments from both parties, and I think that sometimes if we provoke them somewhat we do finish by knowing these.

You say in one paragraph here that appeals would involve tremendous and interminable delay in the certification procedure. Here I have figures which I was able to obtain and it seems to me that it would be interesting to note that out of 261 applications considered by the CLRB from April 1, 1965, until November 30, 1967, there would have been barely 55 request for appeal. This means to say, and I am asking the question, that not all applications for certification presented to the CLRB would then be appealed?

Mr. Ward: Mr. Chairman, it is clear that the appeal procedure envisaged in the Bill is located at an entirely different level from the appeals that are presently possible. Appeals which are possible under the present legislation are appeals before a tribunal. They are based, I imagine, on points of law and on facts brought up before the hearing at the CLRB. According to the new Bill, appeals which might be brought to the appeal board would be appeals on the ruling itself of the CLRB. Of course, it is very clear that for every winner there is a loser, and every loser would want to use every means at his disposal to reverse the CLRB's decision and therefore we think there would be a tremendous increase in the number of appeals under the new legislation.

[English]

Mr. Lewis: You are all bilingual but I am going to ask my questions in English; you may answer in either language, and any one of you may answer.

First, the wire which you read, Mr. Ward, was on the whole accurate. You will find it at pages 40 and 41 of the Minutes of this Committee. Mr. Nicholson kept on giving the CBC as the basic example for this bill, and when I asked him whether he would not agree that Angus Shops or some other could be in the picture he said yes, but that he did not intend that. I then asked him if he would be prepared to withdraw the bill and bring in a bill limited to the CBC and he said, "No".

• 2130

Further, Mr. Gray asked you a good many questions about the meaning of this bill and you are not lawyers. I do not think there is one advocate among you. You may therefore be able to read the law more sensibly than some of us lawyers can.

If the new definition added to the powers of the Board to define a bargaining unit is not a directive to the Board that it should act in that way, could you tell me what reason there would be for the amendment to the Act?

Mr. Ward: That sounds to me like a leading question, Mr. Chairman.

Mr. Lewis: That is what it was intended to be.

The Chairman: That is exactly what it was.

Mr. Ward: I think we have made it clear in almost everything that we have said this evening that we do consider the bill to be specifically directed towards encouraging or inviting the Board to fragment bargaining units, perhaps only the bargaining units at CBC but possibly also elsewhere; so I would have to say there is no other conceivable motive in our minds for this bill.

Mr. Lewis: I do not deny that my question was a leading one but I want you to know, Mr. Ward, and I want your colleagues to know that this has been the proposition made from the first day this bill was introduced; in effect, that the new clause 4 (a) does not really add anything to the bill since the Board already has those powers. I want to know if your ingenuity can tell me, since the Board already has the powers, why Parliament should go to the trouble of having clause 4 (a) in the bill. Perhaps you are ingenious enough to tell me what the reason might have been. I have not been able to see one.

Mr. Frajkor: That, I think, is our point, sir. We see no reason why it should be added in the first place. We see no reason why many of the other provisions should be added either. They seem to add nothing of any great value to the bill; nothing that would increase its efficiency or make sure that decisions are any more proper or any faster than they are now. They could add things, when you consider the context of the times and the context in which this bill is being proposed, which would be bad for Canada. That is our objection. They do nothing good. They could do something bad, considering the context of the times. Why do it at all?

You cannot judge a bill on its text alone. You have to judge at what time it is introduced, by whom it is introduced and under what circumstances it is introduced. In the present circumstances we know very well the kind of political campaigning that unions have done in favour of or against this bill. There is more to it than just the text of this bill; and the text, innocent as it may seem, and having no real reason to be voted for or voted against as it may seem, in the context of its time and in the context of all the sections put together, we think can be bad.

Mr. Gray: May I ask Mr. Lewis a question?

Mr. Lewis: I do not mind.

Mr. Gray: You recall that when I had a turn at asking some questions I made a comment about the fact that as I understood the matter courts and boards in Canada, and I believe in Britain, are not entitled to interpret an Act of Parliament, although this is done in the United States. Would you agree with this interpretation?

Mr. Lewis: Oh, yes, certainly, but I do not agree with your conclusion, Mr. Gray. As a fellow lawyer I say to you that if you come before any board or court and the board or court is faced with an amendment which was placed in a statute in order to remedy something that resulted from a decision of the tribunal, then that tribunal will look at the new language to see what it is that the language intended to remedy on the basis of the previous decision of the board and interpret that language in a way to implement the remedy which the legislature is assumed to have intended.

Otherwise, the court or the board has to take the ridiculous position that these many words in the Act are there for no purpose at all, which no tribunal will ever do; and therefore, when the tribunal asks itself what is the purpose of this amendment, it will look at the previous decision of the Canada Labour Relations Board which rejected the fragmentation of the unit and it will inevitably come to the conclusion that the legislature put these words in the Act now in order to reverse its previous decision. That is my legal logic of the situation, and you do not have to listen to the Minister or to anyone else.

The tribunal will just take the board's decision prior to this amendment and the amendment in relation to that decision, and it is bound to come to the conclusion which is inevitably there that the legislature, assuming

that it does not consist of a bunch of dummies who use words meaninglessly and purposelessly, has put those words there for the purpose of reversing the previous decision. And, therefore, I think the argument that it means nothing is just invalid.

Mr. Gray: You seem to know more about how the board thinks than many of us do.

Mr. Lewis: Oh, no, no. I am giving you what I believe to be a very ordinary and, if I may say so, elementary rule of construction of any amendment to an act. There is nothing very elaborate about it at all.

Mr. Gray: It may well be that other arguments could be made, no less elementary and no less convincing, to lead to a quite opposite conclusion.

Mr. Lewis: Well, that is what I was asking the witnesses to suggest to me, but no witness has so far been able to suggest what other argument there might be.

• 2135

I want to deal now, instead of arguing in this general realm, with the CBC as such and to state to the gentlemen here that it has always seemed to me that unless the facts do not permit it, unless there are facts in the situation of which I am unaware and which do not permit it, while I agree fully that linguistic and cultural considerations should play no part generally in labour relations, in the case of an organization such as the CBC that is concerned with the dissemination of news and ideas and opinions, in addition to entertainment—I am not dealing with that—there may be an argument for cultural and linguistic considerations that do not obtain on the railway or on the air line. I think it would be simply ignoring fact if that general proposition were denied as a general proposition. Therefore, what I would like to know from the gentlemen here is whether the actual organization of the CBC is such that these particular linguistic and cultural considerations which one can argue would apply to an organization dealing in words and ideas and language and culture, make that consideration inapplicable. That is why I asked earlier: what is the breakdown across the province of the employees of the CBC—across Quebec?

[Translation]

You can answer in French if you like. I will not have any difficulty in understanding you.

Mr. Gagnier: Mr. Chairman, a little while ago we spoke of the aspect of freedom. I will now deal with the cultural and linguistic aspects. It is evident that in radio and television the linguistic aspects as well as the cultural aspects count a great deal. But we also have to know exactly where this linguistic or cultural content applies. It applies, first of all, to the authors and then to the performers.

Mr. Lewis: What is its name?

Mr. Gagnier: It is "L'Association des auteurs dramatiques de langue française." I would not swear this was their precise name. It is a trade union in Montréal which includes, unless I am mistaken, the Québec and Ottawa region.

Mr. Lewis: Is it affiliated with CNTU?

Mr. Gagnier: The authors were not; they were affiliated with the CLC, but if I am not mistaken I think they are affiliated with the CNTU at the present time.

The union of artists groups all performers who are not "employees". It is an independent labour union in Montréal affiliated with the CLC. It is affiliated with the Canadian Labour Congress precisely because of its need of bargaining or dealing with authors and artists throughout other countries.

Mr. Lewis: Is this an organization like ACTRA?

Mr. Gagnier: Yes, its members are affiliated with ACTRA as regards English-speaking people.

Mr. Lewis: So you have ACTRA for the English-speaking ones and this particular union for the French-speaking ones?

Mr. Gagnier: Yes. In Montréal you have the French-speaking one, which is affiliated with a federation of artists and authors in Canada.

Mr. Lewis: Is there not also a producers' union?

Mr. Gagnier: There is a producers' union which is affiliated with the CNTU. So now you have the cultural content from which come the broadcasts by the CBC through the artists, the authors and the producers which have three independent unions and which, on the other hand, do not come under the CLRB regulations since they are not "employees."

Mr. Lewis: None of the three?

Mr. Gagnier: None of the groups is made up of "employees." Among the employees you

have announcers that everyone sees on television and hears on radio and who belong to the Canadian union, the Association of Radio and Television Employees of Canada.

Mr. Lewis: It is not an international union?

Mr. Gagnier: No, it is not an international union. It is the union represented here by Mr. Ward and its president, Mr. Cherrier. Office employees also belong to the same union. Our union groups all CBC technicians. All the technicians at the CBC have particular schedules. I know, for I am one. In fact, I may work from 6 o'clock in the morning until 10 o'clock in the morning on the French network; from 10 o'clock in the morning until 1 in the afternoon on the English network, and I can also work on the international network. I can just as well work on the three networks at the same time.

I can also mention the production employees, who are the tradesmen in television. For instance, in make up, costumes and graphic arts the employees are of course called upon to make costumes, paint signs and the drops for any programs whether they be French, English or any culture whatsoever. These employees also belong to a Canadian union; they have for a few days. They belong to CUPE—The Canadian Union of Public Employees. I think this probably answers your question.

• 2140

There is one thing which is rather interesting in this whole affair precisely because we hear a great deal about this cultural aspect. In fact, trade unions should also take this into account. Precisely those who are yelling the loudest in this regard in the Province of Québec are the same people who, when the Department of Education act was adopted, said, "We do not need to put any religion in schools. If the people are religious, if they are Christians, the education will be Christian. Let us not mix religion with education." That is the argument. Now they want to mix culture and trade unionism. In Montréal we have a French Canadian union which is 98 per cent French Canadian. It is a French Canadian union—you cannot get around it.

[English]

Mr. Lewis: Mr. Chairman, may I now ask each of the organizations similar questions. Mr. Gagnier would you tell me how NABET, which is your organization, is organized? Do you have a local in Montreal or in the Province of Quebec?

[Translation]

Mr. Gagnier: Mr. Chairman, I think it is a good example. We should not lose sight of the fact that this entire problem arose because one union was recognized by everyone as a bad union. All the other unions in the CBC are operating well and giving good service to their members. So it might perhaps be interesting to see just how these unions operate to service their members.

In the case of our union, and we are an international union, at the very outset in 1952 we had inserted in our constitution the recognition of the French fact. In other words, right from the outset our union had recognized and accepted that there would be French members in Canada and that they were entitled to receive services in their own language and in their own culture. From the very outset we also obtained a representation on the international board proportionate to the number of Canadian members. At the present time the international board of our union has seven members and a chairman, and of these, three are Canadians. So proportionately we have even more representatives than we do have members. I should tell you that our union is a relatively small union.

Mr. Lewis: And these three Canadian members, are they all English-speaking?

Mr. Gagnier: No. In fact, Canada is divided into two regions. Region No. 6 is east of Ottawa, including Québec and the Maritimes. Region No. 7 goes from Ottawa to Vancouver. The vice-president of region 6, elected by its members, is a man called Jean Benoit, who is a technician with the CBC in Montréal. In region 7 it is a member from Edmonton, Mr. McKay, and in addition we have a vice-president for Canadian affairs. The vice-president for Canadian affairs is named Ronald Pambrun, a French Canadian from St. Boniface, who is as bilingual as I am. These are the members of the board for our union in Canada. I can tell you that all Canadian decisions are reached by these three members of the board. I can also tell you that from the establishment of our union, this was over 10 years ago, we were in a key industry. We opened a Canadian office in Montréal with a bilingual staff; this office serves Canada as a whole. We have also opened an account at the Bank of Montréal, and never did one cent of Canadian funds go to the United States. On the contrary, in the first 10 years we received subsidies totalling almost a quarter of a million dollars from our American colleagues.

We can therefore say that for the past few years we have been financially independent. We admit and are seriously considering the cases that have been brought up already. We will study them again for our next constitution. There will be a serious debate on the question of obtaining complete Canadian independence for our union. This subject will be debated. It has already been accepted by our American colleagues, and if the Canadians really want autonomy they shall obtain it. I can tell you that if we did not get it last time it was not because of opposition on the part of the Americans or of other Canadians, but simply that as technicians and as very practical people we looked at both sides of the balance sheet and we decided it would not be wise to become Canadian immediately; that is the only reason we are not autonomous.

• 2145

You see where we are from the point of view of union structure. From the point of view of administration at the CBC, each local is autonomous. This is obvious, for instance, at our bargaining meetings.

Mr. Lewis: You say "each local". Is there one in Montréal?

Mr. Gagnier: There is one in almost every city where you have CBC stations, and there are more in some places, in some cities where there are private stations.

We should not forget that the CBC is the largest radio and television centre in Montréal; it is also the most important. That is where there are the most employees. Of necessity, then, it is also where trade unions have to give the most representation. Since more representation is given to Montréal, as is proper because it is the largest centre, automatically French Canadians are given the most representation since Montréal is almost exclusively French Canadian.

Thus French Canadians in Québec have always been very well represented for the past 10 years and still are today. For instance, we will be opening negotiations very shortly with the CBC. Among others, the bargaining committee will include five employees who represent their colleagues. Of these five there will be two from Montréal, two from Toronto and one who will come from another place according to the problems existing then. Montréal is always very well represented. As I said a little while ago, we have always kept our money in Canada since it was spent here.

How did we spend it? Precisely so that we could promote unity among the membership. Furthermore, these are not my words; I am repeating what the CLRB said when it considered IATSE's application. One of the criticisms it made of IATSE was precisely that instead of working towards unifying the members and bringing them together so that they might understand one another, it was working rather to divide them.

We have had a united union because we were not afraid of spending our money to maintain harmony.

There is another point that is important and that we have not dealt with. After all, when we were certified to represent the CBC employees it was the decision of the Canada Labour Relations Board to have us represent all employees in Canada. We do not represent just the employees of Montréal and Toronto. We represent members at Inuvik, we represent members at Yellowknife, at Frobisher Bay and Gander. Think of it, if our union or one of the other unions at the CBC were to lose Montréal or Toronto that would mean that almost automatically a good number of Canadian workers working for the CBC would not have a union.

Mr. Duquet: Could I ask you a question, Mr. Gagnier?

Mr. Gagnier: Yes.

Mr. Duquet: Would you tell us, especially after mentioning all the work you did to unite your members and to obtain perfect unity in your union, where there is any danger in Bill No. C-186 for your trade union?

Mr. Gagnier: You have to be realistic. After all, everyone knows that we have just gone through a round of negotiations that gave an average 20 to 25 per cent wage increase to the employees. I want to be optimistic but unfortunately I do not think that we will get another increase in the nature of 25 per cent. Naturally there are going to be some who are discontented. However, if a trade union is there only to take advantage of the members' discontent, naturally it is going to succeed in convincing some that their union is no good and does not do anything and that others could do better.

Mr. Duquet: Then you fear that through such steps undertaken by other trade unions, or another trade union, some of your members might join this other union and that

there might then perhaps be another application for certification of a bargaining, is that right?

Mr. Gagnier: This is so to a certain extent. As I said a little while ago, no one, not even the Congress, will deny or has ever denied the right of the CNTU to try to get members from throughout the country. It is a question of dividing the members. I can give you an example so you will know exactly what is going on. After all, the labour movement has existed for more than 150 years. We have our principles, too, that we call fundamental principles and rules. There are some things you cannot violate and, in fact, when you divide employees like this you are violating these rules and fundamental principles.

You saw what happened when the production employees were represented by a bad union. It is somewhat like a fellow who places his confidence in a doctor and puts his life in his hands for 10 years and all of a sudden discovers that the doctor has exploited him and has taken his money.

Mr. Duquet: He was perhaps not as good as all that.

Mr. Gagnier: Yes, but the man is discouraged...

Mr. Lewis: It is an argument for Medicare!

• 2150

Mr. Gagnier: The fellow says to himself—and this is what happened in Montreal—"For 10 years I have been exploited." Never again will he be taken. He shall say in the future, "It is my health, it is my life. I am the one paying. I am going to see the doctor of my choice and I am going to tell him how to treat me." We say to the fellow, "You have a right to go to the doctor of your choice, but you have no right to tell the doctor how to treat you." By the same token, the doctor has no more right, in all conscience, to tell the fellow, "All right, I agree to prescribe what you want".

Mr. Duquet: I understand your point of view.

Mr. Gagnier: This is precisely the CNTU's mistake, prescribing something that is not for the good of the employees. However, we are facing that problem. When I organize employees and employees come to me and say, "Mr. Gagnier, we are ready to join your union, but you must sign a guarantee that your union will never go on strike." I am obliged to tell them that they have the wrong

address and that I cannot agree to their condition. There are also employees who come to see us who have studied public relations to some extent and they say, "If I join your union we will establish joint management and we will go to consult the employer." There are basic principles. This is what we are objecting to. We are not objecting to the fact that the CNTU can have the right to represent CBC employees. However, there is a way of doing it and if it is not brought about in this way, then it is doing a disservice to the employees. Not only does it do a disservice, but it destroys...

Mr. Duquet: I agree with you. In the questions I am asking you I am not trying to defend the point of view of the CNTU. Not at all. I am trying to reconcile your two statements. First you say that you have been involved with unions for 15 years and you have spent a great deal of money in your union to establish this underlying unity that is supposed to maintain your union's framework in good order. Then two minutes later, in answer to one question, you give us an argument of fear, saying the fellows might suddenly want to leave you and join the CNTU. The CNTU does not concern me at all one way or the other. But this is what I do not understand: on the one hand you are expressing total confidence in the unity of your trade union and immediately afterwards you are afraid that your men are going to leave. These two attitudes do not seem to be compatible.

[English]

Mr. Lewis: Forgive me, I am keeping an eye on the clock and I was doing the questioning.

Mr. Gagnier is only saying there is always discontent in any organization. According to you, our government is doing a marvelous job for Canada but there may be some people who are discontented with it.

Mr. Duquet: That is right.

The Chairman: The same ratio, eight to one.

Mr. Lewis: May I, without getting quite as excited as my friend Mr. Gagnier, ask what is ARTEC's organization and customs in Montreal or Quebec?

[Translation]

Mr. Cherrier: We have a national office. We have locals in each place the CBC has an office.

The national office has one president and two vice-presidents: the president, who is French Canadian; myself, vice-president, for the eastern zone which extends from Montreal to St. John's Newfoundland, and Mr. Jean-Marc Lefebvre. Our representative for the west, which extends from Ottawa to Vancouver, is Mr. Jim Schrumm. Our representative, Mr. Ward, is bilingual. In Toronto we have Mr. Andrew Todd, who is not completely bilingual but will be very shortly because he is completing his studies in French at the present time.

Mr. Lewis: You also have a local in Montreal?

Mr. Cherrier: Our national office is in Montreal...

Mr. Lewis: I see.

• 2155

Mr. Cherrier: We have a sub-office in Toronto and in each office the president is French-speaking, in Montreal, that is, and in Quebec, Chicoutimi and in Moncton.

We have one national convention every two years at which we have simultaneous interpretation throughout the convention. We have our paper, the *Medium*, which has been published since 1957 in both languages, and we also have a clause in the collective agreement which respects the French language as well as the English language.

[English]

Mr. Lewis: Thank you. And the Canadian Wire Service Guild, that is one organization across Canada.

[Translation]

Mr. Frajkor: Yes, that is right. Before beginning I would like to add a few words to what Mr. Gagnier said about the Producers Union. It is a kind of union which is recognized by the CBC but not certified. It is not directly affiliated to the CNTU. They have a contract for technical services with the CNTU. This organization started in Montreal and is now beginning to spread throughout Canada. It is no longer a Montreal union, it represents all the producers except those in Toronto, who remain individualists.

It is possible for the CNTU to organize everyone if it wishes. I am in a very strange position because I represent a unit in Montreal, the majority of whose members belong to the CNTU at the same time.

I shall explain. The Canadian Wire Service Guild is a section of the American Newspaper

Guild, a central labour organization which is based in Washington. The head office for our section is in Ottawa and the president resides in Ottawa. Our business agent, Mr. Jean-Marc Trépanier, who, as a French Canadian, is necessarily bilingual, also lives in Ottawa. The secretary and myself live in Montreal. The treasurer is in Toronto. We are the representatives of very large cities.

Each location which has more than six members of the Canadian Wire Service Guild is entitled to one member on the National Council, which is the legislature, if you will, of the Canadian Wire Service Guild, which meets twice a year to decide on the Guild's policy.

A national referendum is the supreme authority of all unions. A referendum on any subject may be requested by a petition from 10 per cent of the membership. This is to give small sections their voice in the Guild's policy.

Montreal has perhaps 80-85 members and it is the largest unit of the Canadian Wire Service Guild. There is another one in Quebec where French Canadians have two national members on the legislature, if you want to call it that. In Ottawa, where French Canadians form a majority, they can elect a French Canadian if they wish. They did not do so this year. In Montreal again we have a very strange situation. I am told that 55 of our unionists have signed CNTU membership cards. Mr. Michel Bourdon is the president of one small union of the CNTU in Montreal which includes 44 or 45 CBC employees. This group is certified. He also represents unofficially...

Mr. Lewis: Which employees are they?

Mr. Frajkor: The maintenance staff.

Mr. Lewis: Who are unionized?

Mr. Frajkor: Yes, maintenance men. Mr. Bourdon, even though he works in the newsroom with us, is the president of this union. He is also elected by the members of the Montreal National Council of the Canadian Wire Service Guild. I do not think there is any other union in the world which would tolerate such a situation.

We recognized and even the fellows from the CNTU in the newsroom recognized that we need each other, not merely for reasons of economic strength. We need our largest unit, which is in Montreal, and they need us.

This weekend we prepared our demands for the next bargaining round with the CBC. Mr. Bourdon was elected to our bargaining committee. We have a representative from the CNTU on our committee.

Mr. Lewis: This is double unit?

Mr. Frajkor: Yes, that is the way it is in Montreal, a sort of co-existence, which is not too comfortable but necessary under the circumstances. If it becomes necessary to strike against the CBC it is useless to do so in small groups. There are ten French Canadians working in the newsroom in Ottawa, four in Toronto, one in Winnipeg, one in Vancouver, and four in Moncton.

At those centres they can broadcast news and programs in French. It is very easy for a nationwide network to have a broadcast from a small newsroom in Ottawa which the CNTU has not tried to unionize because it is interested in Quebec members.

• 2200

Therefore we have come to the conclusion that this year, if the CNTU does not win over our members in Montreal—I have heard that it is going to file another application for certification very shortly, perhaps tomorrow.

Mr. Lewis: Have you discussed this Bill in Montreal?

Mr. Frajkor: Yes, of course. Through the National Council of the Guild we have decided that we are against the adoption of this Bill. However, our unit in Montreal and all the units have almost unanimously decided in favour of it. Thus there is a unit for the Bill, and the Guild, representing the other members, which is against it. We have always tried to solve these cultural problems and this one is very valid. In Montreal no English-speaking member signed up with the CNTU. Most of the French-speaking members did, so it clearly divided between French and English. I do not say that there is a racial war on in Montreal because we do co-exist; we co-operate.

Mr. Lewis: Like the rest of the population.

Mr. Frajkor: Yes, like the rest of the population.

Mr. Lewis: It is true, we co-exist.

Mr. Frajkor: Our object is to allow Montreal members—or members from any other location—to express themselves naturally. If they are of French culture we have nothing against that; they can give their opinion because the units have a great deal of power. They can, as they have already done, elect members to our bargaining committee. The only thing we can do according to our constitution is to continue in this way.

[English]

Mr. Munro: Mr. Chairman, may I make a comment here about procedure? These gentlemen represent unions connected with the CBC, and I think it is a very crucial consideration in this Bill. I think it might be worthwhile to go into matters further with them tomorrow. Could they stay over?

The Chairman: We have already discussed the possibility with these gentlemen and it seems that we can continue tomorrow afternoon.

Tomorrow morning at 11.00 we have the Canadian Union of Public Employees, Quebec Region, and Local 660, Production de Radio Canada. Assuming that we move on fairly expeditiously, which will be an interesting precedent, we will then have time to return here at 3.30 in the afternoon. I understand that Mr. Ward at least will be here. In any event, I am sure, if you are agreeable to meeting tomorrow that it is the feeling of the Committee this would be useful.

Some hon. Members: Agreed.

Mr. Lewis: Mr. Chairman, is Mr. MacDougall, coming back, and if so, when?

The Chairman: Mr. Lewis, you know as much about Mr. MacDougall as I do.

Mr. Lewis: I do not know anything.

The Chairman: That is my position, too.

Mr. Lewis: But you are in a position to find out, Mr. Chairman.

The Chairman: I have attempted to. We will have something on Mr. MacDougall before too long.

Thank you very much, gentlemen.

APPENDIX III

SUBMISSION
to the
STANDING COMMITTEE ON LABOUR AND EMPLOYMENT
of the

House of Commons Ottawa, Ontario
concerning Bill C-186

An Act to Amend the Industrial Relations and Disputes Investigation Act
by
a Group of Trade Unions in Broadcasting and Communications
February, 1968

To the Honourable Members of the Standing Committee on Labour and Employment

Honourable Gentlemen:

The purpose of this submission is to outline to you the concern over, and the opposition to, Bill C-186 (which is presently before you for study) by a group of trade unions in the broadcasting and communications fields in Canada. These trade unions are as follows:

1. Association of Radio and Television Employees of Canada (CLC). This union represents approximately 2,400 employees of the Canadian Broadcasting Corporation, from coast to coast, employed in clerical, administrative, sales and programming categories. It also represents employees of a private radio and television station in Manitoba.

2. National Association of Broadcast Employees and Technicians (AFL-CIO-CLC). This union represents approximately 2,100 employees of the Canadian Broadcasting Corporation, from coast to coast, employed in technical and engineering capacities. It also represents employees of private radio, television, communications and film-making enterprise in Canada.

3. Canadian Wire Service Guild (Local 213 of the American Newspaper Guild, AFL-CIO-CLC). This union represents approximately 300 employees of the Canadian Broadcasting Corporation, from coast to coast, employed in the Corporation's newsgathering services. It also represents employees of United Press International News Agency across Canada.

4. Canadian Communications Workers Council (CWA-AFL-CIO-CLC). This is a Council of local unions of the Communica-

tions Workers of America, grouping approximately 3,800 workers across Canada in the telephone and communications industries.

These unions coordinate their activities through the Conference of Broadcasting and Communications Unions.

I—THE REAL MEANING OF THE BILL

The proposed bill would make four main changes to the Industrial Relations and Disputes Investigation Act:

(a) It would amend Section 9 to single out certain areas of an employer's operation ("self-contained establishments" or "local, regional or other district geographical areas") which the Canada Labour Relations Board "may" decide are appropriate units for collective bargaining.

(b) By the new section 61A, the bill would set up an "appeal division" of the Board, consisting of the person exercising the functions of Chairman, plus two other persons "representative of the general public", who together would hear appeals from decisions of the Board made under the proposed amendments to Section 9.

(c) It would amend Section 58 to provide for "divisions" or panels of the Board to sit simultaneously in different parts of the country, the decision of each panel being the decision of the Board.

(d) It would also amend Section 58 to allow the appointment of two Vice-Chairmen of the CLRB instead of one, as at present.

On the face of the bill itself, there is no indication as to why the government has seen

fit to introduce this bill. Nor is any clue found in the Explanatory Notes accompanying the text submitted to Parliament. Nor does the casual reader of *Hansard* for December 4, 1967, glean much information from the address of the Minister of Labour when he moved a resolution preliminary to the introduction of the bill.

A Concession to CNTU

However, it was quickly made clear in the ensuing debate that the reason for these amendments to an Act that has served well for twenty years, was pressure from a small but noisy minority of the trade union movement in Canada. Mr. Caouette, Mr. Allmand and Mr. Marchand, in particular, made no bones about the fact that the amendments were designed to satisfy the Confederation of National Trade Unions, which represents about one-tenth of the trade union members in Canada, and which has been complaining that it has not been treated properly before the Canada Labour Relations Board.

But the proposed amendments make no mention of the CNTU, nor of any other union or labour centre in Canada. They are worded in such a fashion that if adopted, they would apply to *all* employees coming under federal jurisdiction, whether these employees belonged to the CNTU, the Canadian Labour Congress, or to the many independent unions across this country.

Thus one is entitled to ask: Does the government mean the proposed amendments to apply to everyone, or just to the CNTU? To our knowledge, no union or labour centre in the rest of the country has complained that it cannot obtain justice under the present structure of the CLRB. Nor have government spokesmen pointed to any such complaints (until the remarks by the Minister of Labour before your Committee on February 1, 1968). They have, when pressed, admitted that the source of the problem is the CNTU.

If then, the amendments are designed to placate the CNTU, should they not refer specifically to that labour centre, or at least to the situations of which the CNTU complains? This question is well expressed in an editorial in *Le Devoir* of January 4, 1968, in which editor Claude Ryan says:

"...We are wondering...whether the government would not have acted more wisely by attacking squarely in its bill the special problem of Quebec, rather than trying to find an omnibus solution

which does not seem to respond to any desire from the rest of the country... With the present text, it is evading the issue. It is creating an administrative straitjacket. Where will this lead us?"

Bill Will Apply to All

Thus it seems to us that, in the words of the Honourable Member for Winnipeg North Centre, the bill "has been drawn in a dishonest fashion". It does not say what it means. But once it is adopted, it must be applied indiscriminately across the nation, to all employees coming under its jurisdiction. It will then be too late to argue that it means something other than what it says.

In the following paragraphs we state our observations on and our objections to each section of the bill in turn.

II—THE FRAGMENTATION OF NATIONAL BARGAINING UNITS (Section 9)

The present text of the Act gives the Board full powers to decide what is an appropriate bargaining unit. In cases where an employer operates on a nation-wide scale, and a union applies to represent all of his employees, the Board has found that it is normally more conducive to orderly and stable labour-management relations to agree to such nation-wide bargaining. Similarly, where a nation-wide bargaining pattern has been established, the Board has always asked that convincing and compelling reasons be put forward to justify breaking up that national bargaining unit.

National Units Have Been Fragmented

Occasionally, convincing grounds are put forward, and a national bargaining unit is "fragmented". In the cases where this has happened, the reasons have been sound economic ones, such as:

1. The nature of the operation had changed materially.
2. The employees would benefit from more regular employment and wider seniority rights.
3. The certified union had not bargained in recent years for the employees concerned, and they were not in fact covered by the existing collective agreement.

Reference to the decisions of the Board over the years shows clearly that the Board's

practice has favoured the maintenance of national bargaining units because the workers' legitimate interests as employees of a nation-wide employer have been best served thereby. At the same time the Board has not hesitated to make exceptions to this practice where the circumstances warranted.

An Invitation to Fragment

We now have Bill C-186, which says the Board "may" fragment national bargaining units. If, as we have shown above, the Board has always had this power, why is it necessary to re-state it?

The only possible answer is that the Board is now being directed or encouraged to fragment national bargaining units in situations where it has hitherto not done so.

As guidelines, the Board is being invited to consider "self-contained establishments" of the nation-wide employer, or, alternatively, "local, regional, or other distinct geographical areas". Let us look at some of the possible consequences of fragmentation on this basis.

Geographic Areas

Winnipeg is surely a "local...area". The Lakehead of Ontario, or the Eastern Townships of Quebec, seem to us reasonably to fit the description of a "regional...area". British Columbia is, we assume, a "distinct geographical area". So is Newfoundland. Does this not permit a union claiming to represent a majority of employees in any one of these "areas" to come before the Board and obtain certification because the Act will now specifically allow it? Within the Canadian National Railways, or the Canadian Broadcasting Corporation, or Air Canada, where one union now represents all the employees from St. John's to Victoria, will there not now be a multitude of unions, each claiming to represent a "distinct geographical area", clamouring for the right to displace the existing union and bargain for the little group of employees in that "area"?

Self-Contained Establishments

If these possibilities were not already staggering enough, we can also envisage unions applying to split up national bargaining units on the basis of "self-contained establishments". The Canadian Broadcasting Corporation, for example, is organized into 4 so-called "broadcasting divisions": The English Network

Broadcasting Division, the French Network Broadcasting Division, the Regional Broadcasting Division and the International Service Division. It may also be broken down by *administrative* "divisions", "regions" or "areas": the Quebec Division, the Ontario Division, the British Columbia Region, the Prairie Region, the Windsor Area, the Ottawa Area, the Maritimes Region, the Newfoundland Region, and so on. There are also various "Networks" that exist on a more or less permanent basis, or which may be set up for special purposes; the English Networks and the French Networks are the two most common examples.

So the question arises: what is a "self-contained establishment" ("autonome" in French)? How autonomous does an "establishment" have to be, before the Board will recognize it as "self-contained"? The CNTU expended vast amounts of verbal ammunition before the Board in 1966 and 1967, trying to prove that the Quebec Division of the CBC was an autonomous, self-governing establishment. All it succeeded in establishing was that the CBC is run from its Head Office in Ottawa. If the CBC, which after all decides how much latitude it will allow in its internal structure, states that its divisions or regions or areas are not "autonomous" or "self-contained", it would surely be presumptuous for the Canada Labour Relations Board, a body which has no control over that internal structure, to decide the contrary.

The Disturbing Prospect

So we have the disturbing prospect of a multiplicity of trade unions wooing the employees of a single employer in different parts of the country; raiding the established union or unions on a piecemeal basis; and jostling one another before the CLRB with claims as to the "appropriateness" of their own particular slice of the employer's establishment. The outlook is truly frightening. Wherever a local group of workers desires—in the CBC, the railways, Air Canada, or the Federal Civil Service—a separate union jurisdiction will be created. The employees will be in a constant state of ferment, as small competing unions assail the common employer with demands for higher wages and better working conditions than the union in the next "area" or "establishment" has been able to negotiate. Meanwhile, the orderly process of nation-wide bargaining will be swept away in a tide of chaos and confusion. Wages will gradually find the level of the community, and the years of struggle by Canadian trade

unions to encourage wage parity across the nation will have been wasted. In nation-wide industries such as the CBC, where such parity has now largely been established, the resulting employee bitterness and resentment is liable to find its outlet in a rash of strikes, which will to a greater or lesser degree affect the whole population of Canada. It is difficult to see how the public interested could be served by such a situation.

All this Bill C-186 would encourage, if it were allowed to become law. But, as stated above, the apologists for the bill admit candidly that this is not its true purpose. What it is really designed to do is ensure that the Confederation of National Trade Unions will have its way, and that the workers in broadcasting, railways, airlines and communications in *Quebec Province* will be separated from the their co-workers in other provinces of Canada and confined in a labour relations ghetto.

Cultural and Linguistic Criteria

At this point, we are confronted with an entirely new and fundamental approach to union representation. In its attempts before the CLRB to split up national units on the railways and in the CBC, the CNTU paid lip service to certain economic arguments, e.g. that working conditions in Quebec were different from those in other parts of Canada. But it failed utterly to prove that the differences were appreciable, or that they were any greater than those distinguishing other regions of the country from one another. The truth is that the CNTU is not really interested in economic arguments. It is out to prove that French-speaking employees should be separated from English-speaking employees *because of their language and their culture*. This was expressed by the CNTU lawyer at one of these hearings as follows:

"To call a spade a spade, given a geographical area such as the Province of Quebec where the great majority of the people speak a certain language, this gives them a community of interest which is greater than that which they have with people whom they profoundly respect but whom they do not understand... We must consider that the employees we are dealing with today are employed in various tasks the final result of which is a cultural programme... These people are performing a cultural task together, and it is unthinkable that

differences of culture, especially in this domain, should not be able to express themselves."¹

Or again, as the CLRB put it in the Montreal Angus Shops case:

"The Applicant has (asserted) . . . that the great majority of Angus Shops employees are French Canadian and should be represented by full-time representatives who speak their mother tongue and that the realities of this situation were not understood by the leaders of the Intervener Unions, and finally that a cultural unit can justify, apart from all other considerations, the formation of a separate unit. No evidence was put forward by the Applicant supporting these assertions."²

CBC Cannot be Compartmentalized

To go somewhat deeper into the difficulties of splitting up a national bargaining unit, let us look again at the CBC. The CNTU, which is interested only in employees who speak French, originally applied for a bargaining unit consisting of production workers "on the French Network". As soon as they were reminded that the French TV network extends from Winnipeg to Moncton, and the French radio network from Labrador City to Edmonton (now Vancouver), they amended their request to restrict it to those employees in the "Quebec Administrative Division", contending that this was a "natural unit". But it was immediately pointed out to them that within the Quebec Division are a considerable number of employees who do not speak French. Among these are the employees who prepare, promote and produce programs on the English language stations in Montreal, CBM, CBM-FM and CBMT. Among them also are some 250 employees working in the CBC International Service and the CBC Northern and Armed Forces Service, who together use some 15 languages, including English and French. Surely these employees do not fit into the CNTU's concept of a community of linguistic and cultural interests. Far from such a unit being "natural", we call it highly artificial.

¹ Pp. 94-95 Transcript of Proceedings in Application for certification by Syndicat général du cinéma et de la télévision (CSN) and Canadian Broadcasting Corporation before CLRB, May 9, 1967.

² CLRB Reasons for Judgment in application affecting Syndicat national des employés des usines de chemins de fer (CSN) and Canadian Pacific Railway Company, December 14, 1966.

The Quebec Division also contains groups of employees, such as Salesmen and film crews, who travel back and forth freely across the frontier which the CNTU would erect at the Ottawa River. During Centennial Year and Expo 67, large numbers of employees from other parts of Canada moved to Montreal and worked in the CBC studios. Had there been two sets of union regulations, one inside and one outside Quebec, this would have led to jurisdictional battles of monumental proportions.

An Irrelevant Criterion

If, as seems obvious, the real purpose of Bill C-186 is to encourage the setting up of bargaining units in Quebec Province on a cultural and ethnic basis, we submit it is important for Parliament to make up its mind as to whether this is a proper criterion in the industrial relations context. For our part, we submit it is entirely irrelevant. The things that really matter to workers in nation-wide industries are equal pay for equal work, effective representation (in their own language, to be sure) in negotiations and grievance procedure, and a chance to exercise their rightful share of control over the internal operations of their union.

Union Structures at CBC

Three of the unions submitting this brief are nation-wide unions operating at the CBC, with a large proportion of our membership in the Province of Quebec. Our constitutions guarantee to our members equal rights and a voice in union affairs proportionate to their numbers. Our representatives in the Province of Quebec are chosen by and from our members in that province, and our affairs in that province (and elsewhere) are conducted with a true respect for bilingualism. In practice, our national structures often show greater representation from our French-speaking membership than their numbers alone would justify. In ARTEC at the present time, for example, two of the three National Officers, including the National President, have French as their mother tongue. A similar situation exists in NABET. We see nothing strange about this, since our members have always seen fit to elect their officers according to their ability rather than the sonority of their surnames.

We state these facts not in order to boast, but in order to stress that to us, linguistic and ethnic balance is something one takes for granted in a democratic structure. The real

raison d'être of our unions is community of interest in the economic sphere. Our members see no difference between a CBC Television Technician in Quebec City and one in Edmonton, between a Stagehand in Montreal and another in Toronto, or between a Stenographer in Chicoutimi and her counterpart in Calgary. Each pair of employees does the same sort of work for the same employer, under the same Job Description. Should they be prevented from working together in the same union to improve their lot, simply because the Chicoutimi Steno takes dictation in French rather than English, or because the Stagehand in Winnipeg swears in a different tongue (probably Ukrainian) when his hammer slips and nails his thumb instead?

CNTU Does Not Represent All

We feel it is important to demolish the myth, so assiduously cultivated by the CNTU, that it speaks for all French-speaking workers in the Province of Quebec and in those industries which it is trying to fragment. The CNTU does not speak for a majority of unionized employees in Quebec; the Quebec Federation of Labour does. The CNTU does not speak for French-speaking members of those unions appearing here before you; those of us here today are their spokesmen, elected by them and appearing at their request. Nor has the CNTU ever proven that it could speak for a majority of the CBC production workers whom it claimed to represent. In the one employee vote conducted by the Board, the CNTU could muster only 262 supporters in a unit of 700. In Quebec City, moreover, the CNTU had not even one adherent; all 28 employees voted for another union.

A Separatist Argument

The CNTU argues that no one is forcing Quebec workers to switch to Quebec unions if they wish to belong to what it contemptuously calls "pan-Canadian" unions. But its whole propaganda is designed to persuade Quebec workers that they are not masters of their own destiny as long as they remain part of nation-wide structures. This argument may be easily recognized as that of the separatists and quasi-separatists. It is an argument which has no place in a discussion as to the appropriateness of a bargaining unit. And it is certainly not an objective that should be urged on Parliament by a Government dedicated to the principle of national unity, which has just sponsored a nation-wide Constitutional Conference to promote that principle within a

federal structure. We submit it ill becomes this Government to be promoting separatism within the trade union movement when it opposes it in other spheres.

III—THE APPEAL DIVISION

(Section 61A)

The unions appearing before you are totally opposed to the introduction of an appeal procedure into the certification mechanism. In none of the eleven Labour Relations Acts in this country has there ever been a provision to appeal the decisions of the Labour Boards to another administrative tribunal. Nor, until now, has it ever been suggested that an appeal division was necessary. Certainly the CNTU has never before made any such representations.

It is proposed that the appellate division function only to hear appeals from Board decisions concerning the fragmentation of bargaining units. We fail to understand the rationale behind this suggestion. If it is desirable to allow unions or employers a second chance to argue their case before the Board in certain circumstances, then surely it is only proper to allow this recourse in all cases. Are the decisions of the Board with respect to national bargaining units automatically assumed, in advance, to be so suspect that a clause is now necessary *in the law itself* to guarantee the right to challenge such decisions, and such decisions alone?

The Political Dangers

We further question the wisdom of the make-up of the proposed appeal division. As opposed to the representatives of labour and management on the present Board, the two members of the appeal division other than the Chairman are vaguely described as "representative of the general public". The conclusion is almost unavoidable that those appointed will reflect a political mandate, from the government which is sponsoring these amendments and whose aim, we repeat, has been candidly admitted as satisfaction of the demands of the CNTU.

Thus the role of the Canada Labour Relations Board is being downgraded in two ways. First, since its decisions in this area will no longer be final, it will tend to decline in stature and importance. Secondly, the labour and management representatives on the Board will no longer be able to act with impartiality and unfettered judgment, since their decisions will now be subject to reversal

by two strangers. Indeed, we suspect that when the Board's decisions have been reversed on one or two occasions by this trio of government appointees, the Board will very soon learn what decisions are expected of it and will act in accordance with the dictates of the government, rather than with the interests of the workers as it sees them.

To quote again from *Le Devoir* editor Claude Ryan:

"Within the CLRB itself, there is to be created a second authority, a sort of parallel authority, which in time would risk undermining the first, the main authority. This seems to us rather unusual, dangerous and audacious, not to say illogical."⁽¹⁾

Interminable Delays

From a practical point of view, however, we submit that the most important objection to this amendment is the interminable delays that it will introduce into the certification process. It is well known that the essence of a successful recruiting campaign is speed. Most managements are opposed to the introduction of a union into their establishment, and will often go to great lengths to delay its certification and stall off the bargaining process. While the Canada Labour Relations Board cannot, in our view, be accused of excessive delays in its procedures, there is already enough time spent in investigating applications for certification, in giving the various interested parties an opportunity to state their case at a hearing, and in reaching and promulgating a decision. The establishment of an appeal body within the Board can only serve to create more delays. As the Honourable Member for Ontario, Mr. Starr, put it in the House of Commons on December 4, 1967, "we will find that all the decisions of the... Board will be appealed." Meanwhile, the employees affected will be the losers. Whether it is a case of a union attempting to gain recognition at a previously unorganized "self-contained establishment", or of a union fighting to carve out a chunk of another union's national bargaining unit, the succession of applications, hearings, appeals and further hearings can only result in frustration, unrest and confusion among the employees. Such a situation, far from achieving the government's aim of satisfying the workers, can only work to the benefit of a hostile management.

⁽¹⁾ *Le Devoir*, January 4, 1968.

IV—THE ESTABLISHMENT OF PANELS

(Section 58)

The first thing to notice about the proposed new Section 58B, which sets up "divisions" or panels of the Canada Labour Relations Board, is that the Board already has the power to constitute itself in substantially this fashion. We refer to Rule 4 of the Board's Rules of Procedure, wherein it is provided that:

"(1) "Three members of the Board including the Chairman and one member representative of employers and one member representative of employees constitute a quorum for the purpose of any hearing or decision of the Board or the transaction of other business of the Board.

"(2) The decision of the majority of the members of the Board present and constituting a quorum of the Board is a decision of the Board and, in the event of a tie, the Chairman has a casting vote."

(It is also provided in Section 58 (3) of the present Act that the Vice-Chairman acts in the place of the Chairman during his absence for any reason.)

A Full Complement is Necessary

The fact that the Board does not normally sit as a three-member body surely indicates that its members take their responsibilities seriously, and that both labour and management representatives recognize the need to be present in sufficient numbers in order to give proper attention and consideration to the matters before them.

Now, however, the Government would invite, direct and encourage the Board to divide itself up into small sub-groups, for the purpose (as the Minister of Labour explained it in the House on December 4, 1967) of sitting simultaneously in various parts of the country. The Minister claimed that because the number of cases before the Board had increased in the past few years from 100 to about 145 annually, this had "greatly increased" the work load of Board members, and simultaneous panel sittings "would enable the work to be done with greater dispatch". Again, on February 1, 1968, as reported in the *Globe and Mail*, the Minister stated before your Committee that "although the Board sat only three days a month, many of the members had separate careers that made heavy demands on their time."

A Fallacious Excuse

The suggestion implicit in these remarks is that the Board is unable to meet more than three days a month, and that because of this, it is unable to get through its agenda. We challenge the accuracy of this proposition. It is our understanding that the 145 cases coming before the Board each year do not constitute an unduly heavy work load, and that there is no backlog in the Board's work. We are informed, moreover, that whatever may be the demands of the "separate careers" of Board members, the Board simply has no need of sittings longer than three days a month. As a matter of fact, we understand that the Board has often completed its business in one and a half or two days. If this is true—and the records of the Board will surely give evidence as to whether it is true or not—then panels are not needed for this purpose and the excuse of a backlog of work has no validity.

Why, then, are panels needed? In seeking an answer, we need go no further than the words of the Minister, when, in the House last December 4, in reply to a question from Mr. Starr, he stated as follows:

"... I would hope that if there are three representatives from the CLC as against one from the CNTU (on the Board) there might be a pattern established so that there will be a balance in representation (on the panel); in other words, that there would be one from each respective group, depending on the particular problem being discussed."

More CNTU, Fewer CLC

The real intent of the amendment is thus exposed. The government wishes to change the ratio of CLC representatives to CNTU representatives, "depending on the particular problem being discussed." The minimum number of Board members constituting a panel is set at three, of whom one is the Chairman or Vice-Chairman, and another is a representative of management. Under this arrangement, if the "particular problem being discussed" arises in Quebec, the labour representative could well be—and we daresay would be—a CNTU representative. There would be no CLC representative at all. And yet the CLC has more affiliated members in Quebec Province than has the CNTU. Even if it had not, its concern for the maintenance of national bargaining units would give it a vital interest in representation on any panel dealing with such an issue.

We are immediately struck by the devious approach to this issue. If the government really wants to have fewer CLC representatives on the Board and more CNTU representatives, why does it not simply change the persons on the Board? It can do that at any time without legislation. The proposed arrangement would in theory preserve the present character of the Board's make-up, but in reality would make it little more than a hollow shell. The real decisions would be taken by selected panels, with the Chairman able to vary the labour representation as he saw fit, in order to achieve a pre-determined result. We see a very real danger here of political interference with the work of the Board. There is also, of course, the likelihood that the panels will make decisions which are inconsistent with one another and thereby undermine whatever jurisprudence the Board as a whole may establish.

The "Loaded Dice"

Much is made in CNTU propaganda of the alleged injustice of having three CLC "supporters" on the Board, as against one CNTU "supporter". The Minister himself is quoted as having espoused this theory:

"Board members acted in a judicial capacity but when there was an imbalance among the labour representatives on the Board, it was hard 'to convince those who lose out that they've had a square deal', Mr. Nicholson said.

"In jurisdictional disputes, no matter how fine a man may be, his philosophy will influence his decision no matter whether he be a representative of the CLC or the CNTU."

"...Allegiance to union affiliations is bound to be evident, 'particularly when you've got two radically opposed union groups,' he said."⁽¹⁾

A Grave Reflection on the Board

This whole argument of partisanship by labour members of the Board constitutes a very grave reflection on the integrity and impartiality of these members, Section 58 provides that they are "representative of employees", not of the CLC, the CNTU or any other labour organization. If it had been intended that they should defend the interests of a particular labour group, that group

would have been spelled out in the legislation. It so happens that the CLC, with eight times as many members as the CNTU, has three times as many representatives on the Board (if one includes the railway nominee within the CLC representation). To give these two labour centres representation in proportion to their numbers would mean there would be eight CLC nominees on the Board. The fact is, however, that the legislator did not intend to have any particular labour group represented in exact numerical proportions. Otherwise the 260,000 union members unaffiliated to either the CLC or the CNTU would surely also be represented on the Board.

We believe, then, that notwithstanding the cynicism displayed by the Minister of Manpower and Immigration in the House last December 4 (pp. 5002-3 of Hansard), the labour members of the Board are *not* there "to represent the interests of their labour centre and their affiliated groups", but rather to represent the interests of *all* the workers. The whole history of Board decisions demonstrates that not only the labour members, but the employer members, have faithfully discharged their mandates. When the Board turned down CNTU applications for the fragmentation of national bargaining units at the CBC and on the railways, we submit it did so not because the labour members were shackled by their union allegiances, but because they sincerely believed that those national bargaining units were in the best interests of the employees. Similarly, when the Board fragmented national bargaining units at the Canadian Pacific Steamships docks in Vancouver several years ago, and at Nordair Ltd. in Montreal in 1965, it did so because there were valid and proper economic reasons for doing so.

We reject utterly the CNTU contention that cultural and ethnic differences alone justify fragmentation. Where the employees in a nation-wide enterprise perform similar tasks in Quebec and elsewhere, under the same job description and under the same set of company rules and regulations (as is the case with the CBC bargaining units), then it makes no economic sense to separate them. In the classic case of the CBC production workers, until recently represented by IATSE, the dissatisfaction with that union was not restricted to Quebec. It was nation-wide. And it was based on the fact that that union was not providing proper service to its members *across Canada*. As the Board sensibly recognized, to have

⁽¹⁾ *Globe & Mail*, February 2, 1968.

changed the bargaining agent for Quebec Province only would have left the employees in the rest of Canada without adequate representation. The proof that the employees in that unit *can* work together in a national unit is the fact that the Board is now considering requests for certification by unions who have succeeded in recruiting members both inside and outside Quebec Province.

Changing Good Rules to Bad Ones

As the Minister of Labour (we suspect rather ruefully) put it: It's hard to convince those who lose out that they've had a square deal. We respectfully submit, however, that the way to convince such people is to explain to them the logic and good sense of the Board's decisions, rather than to overturn basically sound labour relations principles and turn the losers into winners by adopting an entirely new set of rules.

V—THE APPOINTMENT OF TWO VICE-CHAIRMEN

(Section 58 (3))

The provision in Bill C-186 to appoint a second Vice-Chairman of the Canada Labour Relations Board was explained by the Minister as follows (Hansard, p. 5008):

"I will be perfectly frank and say that one reason I think this should be done is that perhaps 35 or 40 per cent of the applications that come before the Board are from French-speaking parts of Canada, and neither the Chairman nor the Vice-Chairman speak French. Let us be frank, realize this, and agree that in fairness we should have a second, a bilingual, Vice-Chairman so that at least one of the three senior officers of the Board has a knowledge of our second language."

Bilingualism Desirable

We would state immediately that we welcome any move by the government to have a bilingual Vice-Chairman of the Board, provided, of course, that he is qualified for his post in all other ways. We are, in fact, willing to go further than that. We would recommend that both the Chairman and the other vice-chairman also be bilingual. If it were possible, we should also like to see bilingual labour and management representatives appointed to the Board. This is, we feel, in the spirit of the recommendations of the Royal Commission on Bilingualism and Biculturalism, and it is also a practical considera-

tion as far as the efficient operation of the Board is concerned. The simultaneous interpretation system currently in use would still have to be utilized for the benefit of unilingual persons appearing before the Board, but the Board members themselves would no doubt prefer to be able to understand petitioners using their own language.

An Unnecessary Amendment

Having said this, we find it rather strange that the government should have felt it necessary to change the law in order to appoint a bilingual Vice-Chairman. Surely it would have been just as simple to replace the present Vice-Chairman, or send him to a language school.

It seems obvious to us from the Minister's explanation that it would be the second Vice-Chairman, the bilingual one, who would chair the Board's hearings on applications emanating from French-speaking groups. More importantly, if the panel system became operative, he would no doubt chair the three-member panel composed of one labour and one management representative. We have already criticized the proposal for panels on the grounds that it would enable a government desirous of placating the CNTU to "load" the panel so as to ensure that the CNTU's viewpoint is accepted. If our fears are borne out, the assignment of the second, French-speaking Vice-Chairman will simply be a further guarantee of this.

The Fallacy of "Loading"

The Government's view seems to be that the labour representatives on the Board are there to vote in favour of their own labour centres. If it is wrong to "load" the Board against the CNTU, then surely it is wrong to load it in favour of the CNTU.

We do not, of course, accept the premise that under the present structure, nor by virtue of the Board's philosophy in disposing of applications, the Board is "loaded" for or against anyone. This is an unworthy and in our view, completely erroneous interpretation of the intention of the legislators who passed the law in 1948. If this concept is now to be accepted, then Parliament will have to find ways to ensure representation on the Board from all those other unions in the country, currently unrepresented, who will immediately clamour that the Board is "loaded" against them.

VI—SUMMARY

In summary, the unions here represented oppose Bill-C-186 for the following reasons:

1. It is dishonest. It does not say what it means.

2. It will regionalize the present nation-wide bargaining in national enterprises and thereby strike a further blow at national unity.

3. It will nullify the strenuous efforts over the years by government, labour and management to promote industry-wide bargaining and reach nation-wide wage parity.

4. It will set a precedent that will lead inevitably to the fragmentation of the public service bargaining units now being set up on a nation-wide basis.

5. It will envenom labour-management relations and embitter inter-union rivalries.

6. It will cause worker frustration and unrest and lead to strife and violence.

7. It will engulf the Labour Department's administrative machinery in a flood of applications, hearings and appeals.

8. It will gravely prejudice the employees' rights to effective representation by causing endless delays in certification proceedings.

9. It will expose the Canada Labour Relations Board to dangerous political pressures.

10. It is based on a false premise that cultural and linguistic claims should take precedence over the economic factors that justify the maintenance of national bargaining units.

11. It will implant separatism in the labour movement at a time when the Government should be seeking ways to promote harmony and cooperation among workers across Canada.

In short, then, we believe Bill C-186 is a thoroughly bad piece of legislation. It should not have been presented to Parliament. The Government should have waited until its own specially-appointed body, the Task Force on Labour Relations, has completed its study of this issue, and any legislation should be based on the Task Force's recommendations.

We therefore call on your Committee to recommend against the adoption of Bill C-186, and we urge all Members of Parliament to work for its defeat.

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HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68

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STANDING COMMITTEE
ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

TUESDAY, FEBRUARY 27, 1968

WITNESSES:

From the Canadian Union of Public Employees (CUPE): Mr. Roger Lampron, President, Quebec Division; Mr. André Thibaudeau, Quebec Director; Mr. Robert Dean, Assistant Quebec Director; Mr. Gilles Pelland, President, local 660, Production de Radio-Canada. *From the Association of Radio and Television Employees of Canada (ARTEC):* Mr. Yvon Cherrier, National President; Mr. John C. Ward, Acting Executive Vice-President; *From the Canadian Wire Service Guild:* Mr. George Frajkor, National Secretary; Mr. Jean-Marc Trépanier, Business Agent. *From the Canadian Communications Workers Council:* Mr. Gerald G. Hudson, National Representative.

ROGER DUHAMEL, F.R.S.C.

QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,	Mr. MacInnis (<i>Cape</i>	Mr. Nielsen,
Mr. Boulanger,	<i>Breton South</i>),	Mr. Ormiston,
Mr. Clermont,	Mr. McCleave,	Mr. Patterson,
Mr. Duquet,	Mr. McKinley,	Mr. Racine,
Mr. Gray,	Mr. McNulty,	Mr. Régimbal,
Mr. Guay,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Hymmen,	<i>North and Victoria</i>),	Mr. Ricard,
Mr. Lewis,	Mr. Munro,	Mr. Stafford—(24).

Michael A. Measures,
Clerk of the Committee.

CORRIGENDUM

Issue No. 5, page 126, line 1, between “on” and “competitive” insert “non-”.

MINUTES OF PROCEEDINGS

TUESDAY, February 27, 1968.

(11)

The Standing Committee on Labour and Employment met this day at 11.10 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, Munro, Patterson, Reid, Stafford—(14).

Also present: Messrs. Leboe and Macaluso, M.P.'s.

In attendance: From the Canadian Union of Public Employees (CUPE): Mr. Roger Lampron, president, Quebec Division; Mr. Andre Thibaudeau, Quebec Director; Mr. Robert Dean, Assistant Quebec Director; Mr. Gilles Pelland, President, local 660 Production de Radio Canada.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced Mr. Lampron who, in turn, introduced those others in attendance.

Mr. Thibaudeau summarized the written briefs of CUPE's Quebec Division, copies of which had been distributed to the members of the Committee in English and French. (The briefs of CUPE's Quebec Division and of local 660 are printed as Appendices IV and V in this Issue.)

Mr. Pelland gave a statement and was questioned from time to time, assisted by Mr. Thibaudeau.

Messrs. Thibaudeau, Dean and Pelland were questioned, assisted by Mr. Lampron.

It was agreed that the Committee would resume this afternoon with the hearing of representatives of CUPE, and then continue with representatives of ARTEC who had been before the Committee last evening (*See Issue number 7*).

With questioning continuing, at 1.00 p.m., the Committee adjourned to 3.00 p.m. this day.

AFTERNOON SITTING

(12)

The Committee resumed at 3:25 p.m. with the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, Munro, Reid—(11).

Also present: The Honourable Bryce Mackasey, M.P.

In attendance: Same as at the morning sitting, and from the *Association of Radio and Television Employees of Canada (ARTEC)*: Mr. Yvon Cherrier, National President; Mr. John C. Ward, Acting Executive Vice-President; from the *Canadian Wire Service Guild*: Mr. George Frajkor, National Secretary; Mr. Jean-Marc Trépanier, Business Agent; from the *Canadian Communications Workers Council*: Mr. Gerald G. Hudson, National Representative.

Messrs. Thibaudeau, Dean and Pelland, representatives of CUPE who were heard this morning, were questioned, and they were assisted by Mr. Lampron.

During an absence of the Chairman, from 4:35 p.m. to 4:45 p.m., the Vice-Chairman, Mr. Émard presided.

The questioning having been completed, at 5:20 p.m. the Chairman thanked the representatives of CUPE who then withdrew.

The Committee resumed the hearing of representatives of a group of trade unions in the broadcasting and communications fields in Canada who had also appeared before the Committee on the previous evening.

Mr. Ward gave a further statement.

Messrs. Cherrier, Ward, Frajkor, Trépanier and Hudson were questioned.

The questioning having been completed, the Chairman thanked the representatives for their attendance.

At 6:30 p.m., the Committee adjourned to Thursday, February 29th at 11:00 a.m.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday, February 27, 1968.

The Chairman: Gentlemen, I see a quorum. I will ask Mr. Roger Lampron, president of the Quebec Division of CUPE, to present to you the witnesses today, and then Mr. Thibaudeau, Director of the Quebec Region of CUPE will summarize the first brief. We welcome you two gentlemen to Ottawa.

[Translation]

Mr. Lampron, perhaps you can make the introductions.

Mr. Roger Lampron (President, Quebec Council of CUPE): I wish to thank the Committee in the name of Quebec Council of the Canadian Union of Public Employees for giving us the opportunity of presenting this brief. We represent 22,000 French-speaking members, or an average of 99 per cent. I should like to present, at my far left, my colleague Andre Thibaudeau, General Secretary of the Quebec Council of CUPE; Gilles Pelland, president of a CBC local section; and Robert Dean, Assistant Director of CUPE.

The Chairman: Thank you. I will now call upon Mr. Thibaudeau to present a resume of the general brief from the Quebec division of CUPE.

Mr. Andre Thibaudeau (Director, Quebec Council of CUPE): Members of the Committee, I was advised early this morning that we were to give a summary of our brief because you had a chance to go over it carefully. I should like to emphasize what our impression is in Quebec. Quebecers are of the opinion that this bill was meant to settle a problem between people with a French cultural background and people with an English cultural background, and to us people of French background, representing thousands of members in Quebec, it is altogether and solely a trade union problem which has nothing to do with the present problems in this country between the French and English cultures. They have, in my opinion, quite simply distorted the issue. Here's proof. The local union, the

Canadian Union of Public Employees, was finally certified yesterday by the CLRB and 63 per cent of the French-Canadian workers involved in Quebec backed the application for certification. I should simply like to say that in all the time I have been active in the trade union movement, there has been a leaning on the part of everybody, that is all workers, trade union policies and labour demands, after some initial experiments, have shown a trend towards unity. You have only to look at what is going on among the automobile, tobacco and other workers, people who have the same problems, who are simply trying to unite to defend their rights and not split up. This is the gist of the first part of the Quebec Council's brief, in which an example is given on page 3 of what happened at the General Motors plant in Saint Therese where they tried to start a fight on nationalist and cultural issues. However the workers didn't bite at that time because the whole automobile field—what would you expect—is organized in an international union and those workers are part of that international union.

In this brief we deal more especially and almost wholly with clause (4a) on the splitting of negotiating units. That does not mean that we accept the other amendments to the act. On the contrary, we are against the other amendments to the act. But we are leaving the defence of this point of view to other bodies, like the Canadian Congress of Labour, our national CUPE headquarters and the Quebec Federation of Labour. We are just going to take up those points that most affect us, since we were right in the middle of the fight of the CBC which, in our opinion, is the reason for the introduction of this bill. As for clause (4a), perhaps you are going to tell me that it will not interfere with national units and merely makes the old act more explicit. Well, if I take clause 9 and compare it with clause (4a), I wonder why there is such a clear emphasis. It's an invitation to upset completely the procedure that has been followed for several years. In the present act, if

the CLRB judges it in the interest of the employees to have the units split, it can grant permission for it under the old act. Parliament, then, is clearly saying: "Good, that's what you are going to do." And that is the reason why we are against clause (4a) which is specific and goes against all legislation, provincial as well as federal, enacted till now. We have had a concrete example of the splitting of negotiating units: Hydro Quebec where we had as many as 24 negotiating units. They were created...

• 1115

Mr. Lewis: Before the province took it over?

Mr. Thibaudeau: Exactly, before the province took it over, and also because the employees of Hydro Quebec were not unionized. When the first group appeared before it, the LRB saw fit to give it this right because the others did not ask for it. But what happened in the long run was that there were 24 negotiating units at the bargaining tables: the CUPE had about 14 and the CNTU about ten, and they were in several central labour bodies. We witnessed the most flagrant kind of trade union blackmail between two labour bodies, because the two bodies well knew that the workers would one day try to bring about trade union unity. There was unfair competition as much on the part of Hydro as on the part of the congresses because each one wanted to assure its own survival and that is exactly the situation you want to bring back with bill C-186. And after four years of this, we were on the brink of dangerous strikes at Hydro Quebec. However, electric power is involved here. Because of this interunion rivalry, the two congresses agreed to carry out unification of the bargaining units throughout the Province of Quebec. A vote was ordered and the CUPE won.

Quebec provincial law applies exactly as does the federal law at present, and I insist on the CNTU accepting it in Quebec. However, we can say that the employees in the Abitibi and Gaspé regions say they are completely different in their way of thinking and way of life from the Montreal employees and would like to keep their little Abitibi union and their little Gaspé union. If they insisted on having them it would be because of group selfishness. However the two congresses requested unification of the bargaining units. The same thing happened with the provincial

employees. The CNTU is against the splitting up, in Quebec, of the bargaining units in its policies and I know something about that; I am the Vice-President of the QFL. I meet with the heads of this body and they are absolutely against it. However, they are in Quebec; they are able to organize and they are able to exist. It's not our fault if they are not in Toronto or Winnipeg.

• 1120

In the brief before you, we are trying to show that in the bargaining field, it is absolutely impossible when you are dealing with a single employer to have two groups representing employees in the same job classifications. An employer cannot but offer the same conditions of work and that is where the policy of blackmail comes in. And we know very well that if the workers at the C.B.C. are to be protected they cannot be split up for they will then have no economic power in the face of a powerful employer. If the CNTU had wanted to be logical and defend the culture of the French-Canadians, it had only to take up the cudgels on behalf of the creation of a "Radio-Quebec". However, it did not do so being against such a thing. It simply wanted to have a clear field for union organizing.

On page 10 you have an outline of what might happen if the CNTU represented the workers in Quebec and another union, ours, for example, represented English-speaking employees in the rest of the country.

In the outline we make some conjectures as to just what might happen.

I thank you. I was not prepared to make a summary of this brief. I did it hurriedly but I emphasize the following fact: the problem at the C.B.C. is one of union effectiveness. The union that was there, the IATSE, did not look after the grievances; it did not look after normal union democracy. It did not look after them at all. Therefore the employees unanimously decided to get rid of it. That is when a little group made a political question of it and I should think it unfortunate if politics entered into a problem that is solely a trade union one. There are other courts for settling the present problems in Quebec and that should not be done in a place where conditions of work, hours, wages, holidays, etc. are negotiated; that is not the place for it. However that is what the CNTU is doing, while declaring itself all for federalism. It's a

complete contradiction. That is what I had to say today in my summary of this brief.

[English]

The Chairman: Thank you, Mr. Thibau-deau, for your very forceful presentation. We also have with us Mr. Pelland, the President of Local 660, which is the CUPE local for Radio Canada. If it is the wish of the Committee, we might have Mr. Pelland make a résumé of his position, and then questions could be directed to either of the two gentlemen. Is that agreeable?

Some hon. Members: Agreed.

The Chairman: Mr. Pelland?

[Translation]

Mr. Gilles Pelland (President, Local 660, CUPE): Mr. Chairman, members of the Committee, on behalf of 500 CBC colleagues, allow me to thank you for giving us the opportunity to bring before you a slightly different viewpoint, a different argument from that of the CNTU.

I believe you have had several opportunities for finding out the opinions of the CBC people who uphold the CNTU argument and it is my purpose to tell you that there are other CBC employees at the production level who talk of a purely Canadian bargaining unit.

With your permission I am going to recall for you the beginnings of this struggle. We had an international union called IATSE (International Alliance of Theatrical Stage Employees). This union did not stand up for our rights either in representing us at the grievance level or in bargaining generally. Now a movement for withdrawal of certification started up in 1964. At that time, we decided to put two questions to production members throughout the country.

The first question was as follows: Do you want IATSE certification to be withdrawn or not?

Mr. Lewis: Excuse me, Mr. Pelland. Were you then a member of IATSE?

Mr. Pelland: Yes. At that time I was a member of IATSE. I was Vice-president of the regional group.

Now, at that time, we asked: "Do you want to withdraw from IATSE?" for the reasons I mentioned a little while ago.

The second question was as follows: "Would you agree to set up a Canadian union

affiliated to the Canadian Labour Congress?" And the replies were quite definite. Seventy-five per cent gave their approval to the proposal made in the first question and very nearly 78 per cent showed themselves in favour in the second question.

At that time, a large majority of us in Quebec had declared ourselves in favour of a completely Canadian union. It was a first attempt. The *Syndicat canadien de la Télévision* (Canadian television union) was set up but was rejected by the Canadian Labour Relations Board for a purely technical reason—a vice of form in the presentation of the union itself.

At that time, the CNTU which had established their union at the level of the National Film Board recruited members in fields related to that of the broadcasting industry as well as in various film companies.

• 1125

They mentioned to the CBC the fact that IATSE comprised both elements—English- and French-speaking. You know that taking the country as a whole the CBC employees are, for the most part, English-speaking. So they were not playing Toronto against Montreal but were toying with a small minority possessing a certain amount of power inasmuch as if this group were to support Toronto, it would crush Montreal. If it were to support Montreal, it would automatically crush Toronto. So that was the CNTU's game in the beginning. It was also declared impossible to bring the two networks together. I shall tell you right away that as a CBC employee I work just as much on the English as on the French network. My working conditions are identical, my working method is completely identical, and I do not see why there should be any need to make the networks separate entities. It would then be necessary to separate the two Montreal networks and that would create serious problems. So, the CNTU secured the majority of the recruits.

Mr. Guay: When the Montreal vote has been analysed, do you believe it will be necessary to separate the two networks?

Mr. Pelland: According to the CNTU argument, yes.

Mr. Guay: It was the first argument...

Mr. Pelland: It was the first CNTU argument based on the fact. . .

Mr. Thibaudeau: It was changed when they noticed that it was getting no support.

Mr. Guay: It is important because in it there is no further mention of separating the two networks. In the last argument they were no longer going to divide the two networks.

Mr. Pelland: I should make it clear, Mr. Guay, that it was the first argument furnished by the CNTU in view of the conflict existing at the IATSE level. It was said that the English-speaking part was crushing the French-speaking part. So, they said, "We are going to separate the two networks and the French network is going to belong to us in Quebec", when in actual fact the French network covers the entire country.

That is why it would not be a good idea to carry through this division. I am talking about the first campaign because, as it happens, we in Quebec work for both networks. Our work is produced as much in Edmonton as in Montreal.

Confronted with the difficulties and specific facts, the CNTU finally abandoned this argument; and that is where it brought this political element into play. They changed the emphasis of the problem for it is not a question of separatism or nationalism, it is purely a question of union effectiveness. If we had had some worthwhile agreements and a union which would have represented the rights of French-Canadians at the bargaining table, none of these problems would have arisen.

That is why the S.G.C.T. (the Canadian television union), at the time of the first campaign following which it gained a very slight majority, presented the Canadian Labour Relations Board with an application for certification which it was denied because it did not represent the majority of the production employees.

And here it should be mentioned that the CBC follows a very specific line of conduct with regard to its employees, and I do not believe that the Quebec administration is acting arbitrarily in this respect. From the Office of the Board of Broadcast Governors in Ottawa, it receives these directives which extend throughout the entire country. Therefore this initial attempt on the part of the CNTU was a failure.

We who wanted to provide our members with a union and, above all, to lay the foundations for a CBC union group requested the Canadian Union of Public Employees if it was in a position to represent us. That was where the first CBC campaign had its beginnings in February 1966. We obtained a majority and, once again, the employees of the CBC in Quebec declared themselves in favour of a national, Canadian bargaining unit.

The Canadian Labour Relations Board ordered a vote to be taken between IATSE, the established union which had already obtained certification, and the Canadian Union of Public Employees.

Here again, from Quebec as a whole, there were 320 votes in favour of the Canadian Union of Public Employees, and 292 votes were spoiled in Quebec as someone had written on them "CNTU" or "SGCT".

It was a systematic boycott on the part of the CNTU, since it saw the possibility of the Canadian Union of Public Employees destroying IATSE once and for all. The only way to be sure was to boycott the vote, which is precisely what happened.

At this point I feel bound to specify that for the 48 hours preceding the vote and during the two days of the voting, the Canadian Union of Public Employees was obliged to remain completely silent.

Mr. Boulanger: You say to remain. . . ?

Mr. Pelland: . . . to remain silent. It is a law of the Canadian Labour Relations Board. The unions whose names appear on the ballot-paper may not carry out any propaganda for the 48 hours preceding the vote nor during the two days of the voting.

• 1130

Mr. Lewis: That holds good not only for the unions but also for the employer, does it not?

Mr. Pelland: It holds good for the employer also.

Mr. Lewis: For everybody.

Mr. Thibaudeau: Not for everybody; not for the CNTU.

Mr. Pelland: At that time, since the CNTU neither appeared on the ballot-papers nor was the employer, it was entitled to boycott the vote, and did so, in fact. For very specific

reasons, the Board ordered a step to be taken which would apply directly only to the people concerned, in the circumstances.

I said just now that I ought to mention the fact that certain individuals set themselves up as the spokesmen of the Confederation of National Trade Unions. You know René Lévesque very well. He is a former CBC employee. He is a good-natured person who enjoyed a certain amount of popularity with the CBC. He is the same fellow who, in 1959, at the CBC kept some 2000 employees in the street to try to defend the right, today being challenged in no uncertain manner, of producers to have a union. There's also Robert Cliche who used to be a Member of Parliament, or rather, who is the NDP leader in the Province of Quebec; and Gérard Pelletier...

Mr. Gray: Not leader but Chief.

Mr. Pelland: Chief of the NDP in Quebec; and Gérard Pelletier.

Mr. Gray: And what part did they play in this...

Mr. Pelland: They asked members of the production staff in Quebec to boycott the vote, and René Lévesque based his actions on the fact that...

Mr. Gray: You say that the Chief of the NDP in Quebec supported the CNTU?

Mr. Lewis: At that time, yes.

Mr. Gray: Is he a colleague of Mr. Lewis?

Mr. Lewis: I also supported the CNTU.

Mr. Guay: We don't know who you supported.

Mr. Gray: Did the deputy chief of the NDP give his support?

Mr. Thibaudeau: No, you have been quite misinformed.

Mr. Pelland: Sir, I would like to point out here that he did not directly support the CNTU. He supported the CBC employees in their claims regarding the negotiating unit. That is to say...

Mr. Gray: But was not that the position taken by the CNTU?

Mr. Pelland: Certainly, it was automatically the position taken by the CNTU.

Mr. Émard: Let us say they have also their Ralph Cowan.

Mr. Gray: In his capacity of chief?

Mr. Thibaudeau: What is important here is this. It is enough to state that while we were unable to reply, the people of prominence, those who were known thanks to TV or through circulars or newspapers simply took upon themselves to change the nature of the debate at the last minute while we could not even reply because we would have been discredited.

Mr. Duquet: And Mr. Cliche was one of those people, would you say?

Mr. Thibaudeau: Yes.

Mr. Lewis: You have forgotten Mr. Lévesque.

Mr. Gray: He's on the same side as Mr. Lévesque the Separatist?

Mr. Lewis: Mr. Lévesque was not a separatist, he was Minister.

Mr. Guay: He always was.

An hon. Member: He was a Liberal minister at the time.

Mr. Lewis: He was a minister in the Quebec government...of the Quebec Liberal government.

Mr. Pelland: Then, at that time, the Canadian Union of Public Employees lost by 17 votes cast, not because it had not obtained the approval of the majority of members, but because the Canadian Labour Relations Board Act states that 50 per cent of the votes plus one are necessary. Since we had not obtained 50 per cent of the votes, accreditation was lost to us by 17 votes. Then, faced with this refusal by the Board, the CNTU launched a new campaign. It presented an application for accreditation with the Board and was rejected a second time, in the case of the production workers. We again asked the Canadian Union of Public Employees for a chance to try again and in November 1967, we filed an application for accreditation with the Board. Our request had a majority support in the country as a whole and particularly in Quebec. Here is what happened: 483 employees of a total of 760 in Montreal showed that they adhered to the Canadian Union of Public Employees. At that time, it was the third time that the production employees had shown they they favoured unity for all Canada. The hearing was held last week and yesterday we learned from the Canadian Labour Relations Board

that the Canadian Union of Public Employees was accredited to represent the production employees of the CBC.

• 1135

We want to give you those details to point out that during the four years of our battle, of the interunion fight—and I believe that the fight is going to be long drawn and will remain engraved in the union annuals—the employees of the CBC in Quebec, particularly in Quebec, have set as a goal the establishment of national unity of negotiations. We are perfectly aware of the fact that our employer, who takes the Canadian viewpoint, has very precise policies for us. You only need to be on the inside to know exactly what are those policies. And I can assure you that there is no division. Presently there are 5 unions representing the employees and on every occasion it is easy for the CBC to play one union against the other. To attain unity inside the CBC was to my mind the sole effective aim for us.

Mr. Guay: I think that is important enough. The five unions representing the CBC across the country will negotiate together.

Mr. Pelland: No, individually.

Mr. Guay: Individually?

Mr. Pelland: For instance, the technicians that are represented by NABET have a collective agreement that enables them to negotiate apart from the other unions.

Mr. Guay: On the national level?

Mr. Pelland: Yes.

Mr. Guay: On the national level, yes. But the 5 unions will not negotiate together.

Mr. Pelland: No.

Mr. Guay: There will be five collective agreements.

Mr. Pelland: That is right; there will be five completely different negotiations started at different dates for that matter. At that time, our aim was precisely to lay the foundation of syndicate unity for the CBC. The NABET Union negotiates on a national scale and I do not think that the boys are unhappy in their national negotiations. I am convinced that should there be a division and calling of a strike...In times of negotiations, we must go to the ultimate in certain occasions and that is what makes the strength of a union, that is what makes the strength of negotiations at

experience was pretty unfavourable to such a that time. I can assure you that the 1959 division.

I would also like to tell you why the CBC employees have joined the Canadian Union of Public Employees. For us in Quebec whose production is very great, for us in Quebec, either in the case of an assistant script-girl, who have adopted the same task definitions that prevail elsewhere in the country, we owed it to ourselves to claim our rights in a union that was able to accept them. And the Canadian Union of Public Employees, by its structures...I think it is important for us to have a union that will supply us with structures with which we can identify ourselves as workers and as French-Canadians. Therefore the Canadian Union of Public Employees enables us to obtain that result. And that makes it possible for us to get technicians who will solve the great problems we have to face. The most serious problem, let us say, is the tasks evaluation. It is the only union, to my knowledge and to the knowledge of my co-workers, who can satisfy such requirements. And the CBC recently made unilaterally an evaluation of the tasks. If we had had on that occasion a strong union, who would have supplied us with technicians to support our case, the employers would perhaps have been more satisfied.

Those are some of the reasons that compelled us to adhere to the Canadian Union of Public Employees. I will give you yesterday's reaction; certain people who sustained the thesis of the CNTU, for reasons of fear, because their co-workers were senior officers of the SGCT-CNTU, were that happy yesterday that the Canadian Union of Public Employees had been accredited.

I can assure you that our members are asked not to resort to struggles. An inter-union fight has never earned anything to the employees. We are workers and we want to be supported by an acceptable union. We do not want to be the pretext for inter-union fights and also we refuse changes that can be detrimental to employees.

I wish to thank the Committee for having given me the opportunity of coming here to outline the general consensus of opinion which exists in the province of Quebec. And I will say it again: 63 percent of those who voted for the accreditation have expressed their opinion in a frank and clear way. They want only one unit of negotiations for Canada.

I am asking you to acquaint yourselves with the situation and take it into account. Tomorrow I will return to the membership of my union to tell them: "The Members of Parliament were kind enough to receive us and hear another story, that of the employees of the CBC". Thank you.

[English]

The Chairman: Thank you very much, Mr. Pelland. I have on my list Mr. Clermont, Mr. Émard, Mr. Reid, Mr. Munro, Mr. Gray, Mr. Guay and Mr. Lewis.

• 1140

[Translation]

Mr. Clermont: Mister Chairman, I will address my first question to Mr. Pelland. He says that the Canadian Union of Public Employees was accredited yesterday by the Canadian Labour Relations Board as negotiating unit for Canada and that 63 percent of the employees of the CBC, in Montreal, voted in favour of that union. Do you have the number of people in addition to the proportion?

Mr. Pelland: Yes, 482 members on a possible number of 764.

Mr. Lewis: 482...

Mr. Pelland: 482, on a possible number of 764 members.

Mr. Clermont: Do you know whether there were many abstentions for one reason or other?

Mr. Pelland: Well, this has not been a vote. The Canadian Union of Public Employees presented an application of accreditation to the Board and the Board have decided, from proven results of the Public Employees Union, that the latter was the only one capable of satisfying the requirements of the Act, that is that it had the majority.

Mr. Clermont: What was the proof?

Mr. Pelland: The first proof was only the signature on the card. That is from where came the 63 percent of the Quebec members who adhered to the Canadian Union of Public Employees. I think that at the level of the Canadian Labour Relations Board (in the present case where the employees of the CBC were free agents, that is when they had no more negotiating agents), it had to get that first proof of absolute majority of the group who made application for an accreditation.

And 63 percent have adhered by signing cards, by paying an initiation fee, by having a witness countersign the member's adhesion.

Mr. Clermont: In a word, Mr. Pelland, or Messrs. Thibaudeau and Lampron, the employees of the CBC have chosen voluntarily. Then, if such is the situation, how would the Bill C-186, if adopted by the Canadian Parliament, hinder the will of such employee?

Mr. Thibaudeau: Here is how. We are not coming here solely to speak for the CBC employees, since we represent in Quebec over 22,000 members of the Public Service. For my part, I find the Bill—pardon the expression—vicious. Take Section 4 (a), I find it both political and vicious. Because there is simply...

Mr. Clermont: Mr. Thibaudeau, when you say vicious and then political...

Mr. Thibaudeau: ...vicious with regard to interpretation...

Mr. Clermont: ...Do you have any political experience?

Mr. Thibaudeau: No, not in that field...

Mr. Clermont: Good!

Mr. Thibaudeau: I am speaking solely with regard to interpretation. The first reaction is that, everything considered, no right is being withdrawn. However, if we look at section 9 (1) of the former legislation, we find that this is not fair. If you take the pertinent section of either the Ontario or Quebec legislation, you find that they are very similar in that they give total discretion either to the Labour Relations Board in Quebec or the Canada Labour Relations Board at the federal level to decide what type of bargaining unit is appropriate. They have that power.

And you have just said here "an indication to an organization". You have just said to that organization: "Well, everything you have decided for the workers' own good means nothing because from now on we want to tell you what course to follow. What is the purpose of section 4 (a) when they already had the power to divide under section 9 (1)? They have already formed local units.

The CNTU has displaced the discussion and rather than settle the matter among the unions they chose to make a political issue out of it, and this is very bad for the work-

ers. You should say that the present set up protects the rights of the workers since it allows the CLRB to divide if they deem the unit appropriate for bargaining. They can do it under provincial legislation. And as a union representative in Quebec, I find this very disturbing.

What happens is that employers, Boards of Trade and others ask the Labour Relations Board in Quebec to divide bargaining units for transportation firms at Hydro-Quebec, and elsewhere, the result of which is that you have an avalanche of strikes and social ills.

That is why I find it unfortunate that a central labour congress has disregarded labour principles which are meant to unite, not divide. It is not within the framework of collective bargaining that cultural problems will be solved.

Mr. Boulanger: Mr. Chairman, I rise on a point of order. I should like to point out that Bill C-186 is not a bill dealing with the CNTU, but a bill emanating from Parliament, from the government, and introduced by Mr. Nicholson.

Judging by some of your statements, we wonder whether you came here to wage war against the CNTU or discuss the government bill seriously.

Mr. Thibaudeau: I would like to say this to the hon. member, and he can take it the way he wants. I was general secretary at the time Mr. Marchand was president of the CNTU. So I know the CNTU very well. I saw this organization distorting many issues in the legislative assembly in the fight concerning Hydro-Quebec. I saw what action they took when they did not succeed to...

Mr. Lewis: Mr. Thibaudeau, you were general secretary of what organization?

Mr. Thibaudeau: The QFL, the Quebec Federation of Labour.

Mr. Lewis: Not the CNTU?

Mr. Thibaudeau: No, no, the QFL.

Mr. Boulanger: We had understood it was the CNTU.

Mr. Thibaudeau: No, no, the QFL.

Mr. Boulanger: Now we know.

Mr. Thibaudeau: If they could not obtain what they wanted directly, they called on

members and ministers to get it. Take, for instance, the famous provincial Public Service Act.

• 1145

I cannot forget that, after all, there are two people for whom I have a great deal of respect. I know them very well and I respect them: Jean Marchand and Gérard Pelletier. Both have been important officers of the CNTU.

And this smells like political patronage to us in Quebec. And it smelled the same way when the famous Bill 55 concerning provincial public servants was passed by the Quebec legislature. You, Liberal members of Parliament, should not be doing the same thing. I spoke to Mr. Pepin about this at one time and he said to me: "What would you have done in my place?" It is plain that the problem of the CLRB has been shifted to the political arena.

[English]

The Chairman: Gentlemen, gentlemen. This is an interesting discussion, particularly for those of us who are not completely familiar with the internal struggles over the years, but it is totally irrelevant to this Bill. As chairman, I would like to bring you back to a discussion related as closely as possible to the subject of the Bill. We only have a certain amount of time and we have other witnesses this afternoon.

Mr. Gray: If this point is not cleared up it may cause some confusion on the record. I understood the witness to suggest that Mr. Marchand and Mr. Pelletier, after their entry into Parliament, remained as officers of the CSN. I do not think that is correct.

Mr. Lewis: He did not say that.

The Chairman: I did not hear that. Mr. Clermont has the floor and I appeal to the members of the Committee to try to stick to the contents of the Bill regardless of whose Bill it may be.

Mr. Munro: I would like to make a further clarification of Mr. Gray's remarks. I do not agree with some of the comments of the last witness. He was imputing motives to Mr. Marchand and Mr. Pelletier which I do not think is proper when appearing before a Parliamentary committee. I also think they are entirely irrelevant. It certainly does not lend itself to any type of proof. If the gentlemen concerned feel they have a good case, and of

course they do think so, then I think they can establish it without that type of comment.

The Chairman: I think with that remark perhaps we could continue.

[Translation]

Mr. Clermont: Mr. Chairman, I hope that those interruptions will not reduce the time allotted to me.

The Chairman: No, Mr. Clermont.

Mr. Clermont: Mr. Thibaudeau, on page 12 of your brief you say:

The Quebec Council is decidedly opposed to the passage of Bill C-186 because it is not in the interest of the workers.

Did you submit this brief to your members? I say this because when I was waiting for my train to Ottawa last week I was very much surprised when four or five railway employees came over to me and said: "Mr. Clermont, we hope that Bill C-186 is going to pass". I said: "What? Why are you saying this when you belong to a union whose official representatives have presented or will present briefs expressing their views against Bill C-186?" That is why I find this odd. Do these briefs represent only the views of the union officials or do they really reflect the opinion of the workers?

Mr. Thibaudeau: I can tell you. Sir, that at every convention the delegates of the workers, from the CNTU as well as from our organization, have always adopted policies reflecting labour unity with regard to applications to the Labour Relations Board. As you know, the majority of non-syndicated workers come under provincial jurisdiction and, at the last convention of the QFL, the question of the fragmentation of the unit of the CBC was presented to one thousand delegates and, unanimously, they approved the idea. I do not think that the opinion of three or four individuals overrides the decision of a whole convention. The ones who are more likely to represent the views of the entire movement are the people duly elected as delegates.

Mr. Clermont: Mr. Thibaudeau, I was very much surprised, and this was not the first time it happened. I had noticed the same reaction from workers at least three or four times before. That is why I am wondering whether you really represent the workers or only a certain group. I do not mean to embar-

ass you by asking this question. As far as I am concerned, I would like you to give me further information so that I can ascertain whether these briefs that are submitted to us represent solely the views of the union officials or those of the majority of the employees in your movement.

• 1150

Mr. Thibaudeau: I can say that two types of unionism have developed: there is the craft unionism and the industrial unionism. This was especially favourable to one of them, the craft unionism people, and they wanted it because they thought their particular problems were more important than those of their neighbours; it was group egotism. You will meet people who, at first, will say: "We would like to have our own little union". But go back to the Hydro. Their employees did vote for the bargaining unit. But ask the fellow in Abitibi if he would prefer to have his own little union and he will probably say outright: "Yes, I would", because he is thinking of his own personal interest. But the entire history of the labour movement shows that in the long run labour unity is the best policy to follow. That sacred principle must not be violated. But it seems to be violated by Bill C-186.

Mr. Clermont: Mr. Chairman, on page 12 the brief deals with re-distribution which will be in effect for the next general election. It says:

Why did the Canadian Parliament not allow the people to choose the boundaries of electoral districts instead of having members of Parliament choose them?

I would like to point out something to you, Mr. Thibaudeau, and also to your organization. Members of Parliament did not choose the new boundaries of electoral ridings for the next general election. Parliament did so, in its wisdom, or otherwise. Some people have doubts about this wisdom, but at any rate, Parliament, through legislation, decided that this re-distribution would be done through ten independent commissions. If my memory serves me right, most of these were chaired by a judge. So, when you compare...

Mr. Thibaudeau: Sir, I would like to clarify a point regarding the question you asked me a moment ago. If, for instance, the citizens of Quebec were told: "We will leave it to you,

through all sorts of committees, to divide the territory into constituencies". Look at the number of counties or ridings you now have and imagine how many requests would be received from this and that group saying: "We want our own representative, we want our own representative". So you would have how many ridings, instead of having in Quebec, what, seventy-five?

Mr. Clermont: Seventy-four, at the next general election.

Mr. Thibaudeau: Seventy-four, in Quebec. How many would you have instead? I think many parishes and many groups would submit requests, and you would be faced with applications from citizens who would want two or three hundred counties. The hon. member said that, in its wisdom, Parliament, after consideration...well then, I can say that, in its wisdom, the labour movement, at its conventions and in its study groups, has decided that the division of bargaining units was a bad thing, that it should not be done...There is, after all, such a thing as the human temperament...

Mr. Clermont: Mr. Thibaudeau, I must make a correction here. I said: "Parliament, in its wisdom". Some people doubt that the action taken was a wise one.

Mr. Thibaudeau: It is the same thing with the unions.

Mr. Clermont: Mr. Thibaudeau, you have mentioned...

Mr. Boulanger: May I ask a supplementary question?

Mr. Clermont: Certainly.

Mr. Boulanger: You said categorically in your brief:

...the elected representatives of the people have established the electoral districts.

That is wrong.

Mr. Thibaudeau: I mean in reference to the laws passed in view of that. After all it is those elected by the people who, in the last analysis, will decide how the division will be achieved.

Mr. Boulanger: No, not at all.

• 1155

Mr. Clermont: No, that is not correct. I think that Mr. Lewis will support us on that point. Once the committees set up have designated those limits and the Act has been passed, Parliament cannot change them.

Mr. Thibaudeau: So, in the final analysis, the committees were approved by the members of Parliament. It was these who had the last word.

Mr. Lewis: In exactly the same way as the CLRB accredits a union to provide unity in negotiations, and no appeal from that decision is wanted.

Mr. Clermont: Nevertheless, Mr. Lewis, you admit that in many areas of government the right to appeal exists, is that not so? As an example of that I refer to the Tariff Board. If a person who appears before the Tariff Board is not satisfied with the decision, he may appeal from that decision to the Exchequer Court.

You stated, Mr. Thibaudeau, that in the automobile industry employees at the Ste-Thérèse plant elected to join an international union. They did so freely. In my opinion that is what many workers, thousands of Quebec workers desire. They want liberty to choose a Quebec union because, on the basis of the arguments they are submitting in briefs or in correspondence, they frequently vote for a particular union but the workers of the nine other provinces choose a different union and they are always directed by officials from other provinces. Let us not make this primarily a matter of French or English, but simply the fact that they are officials from other provinces who are perhaps unaware of the problems in Quebec.

Mr. Thibaudeau: Mr. Clermont, if at Ste-Thérèse the bodywork department had decided it wanted to join the CNTU or if the assembly department wanted to join the other automobile union, would it have been necessary for the bodywork department to be respected and they join the CNTU and that the...It is the whole philosophy of North-American unionism compared with that of European unionism that is at stake. At Renault in France whole departments are members of the FO and others are affiliated with the CGT. That is how it works in France exactly. Our thinking is simply to be given a different philosophical thrust. The idea of a

united front in negotiations will thus change, for why could not the bodywork department at Ste-Thérèse, where the CNTU was already present, have joined the CNTU, because the assembly department, which was very considerably greater, induced it to join the same union. They were intimidated in respect of their right of association, they were intimidated in respect of their minority rights.

Mr. Lewis: Was there a campaign?

Mr. Thibaudeau: There has been a campaign.

Mr. Lewis: Has there also been a vote taken at Ste-Thérèse?

Mr. Thibaudeau: No. It was on the basis of majority cards, and the CNTU withdrew.

Mr. Clermont: Yes, that's right.

Mr. Thibaudeau: It sure is right. And if your argument is pushed still further it will be necessary to re-divide all units constantly, even at the provincial level. That's true. In Hydro-Québec, for instance, there is, at the present time, a whole group, in Trois-Rivières that is still pro-CNTU. They are a minority, but it would be necessary to give them their own little union because a group of two hundred individuals wants it.

Mr. Guay: I do not know whether you are accusing the CNTU or what you are doing...

Mr. Thibaudeau: No, those are examples.

Mr. Guay: I shall give you a rather striking example. I have, in my county, dockyards where the employees are affiliated with the CNTU. In the Province of Quebec there are four large dockyards. I remember that, in my capacity of member of parliament, pressure was brought to bear on me to obtain a provincial negotiating organization in the four dockyards. And you know that Yves Dubé was appointed provincial arbitrator at those sites and that, I believe, at the request of the CNTU. So, it is not so very much in favour of splitting up. It has had a provincial negotiating organization in that domaine.

• 1200

Mr. Thibaudeau: I said that it wanted to split up where it was incapable of organizing.

At the federal level it tried to open an office in Toronto, but it did not succeed. Where it can succeed, it does not ask.

[English]

Mr. Lewis: On a point of order, Mr. Chairman, and I hope Mr. Thibaudeau will forgive me for interrupting. Members of this Committee know what I think of Bill C-186. I do not think it is a good Bill but I do not think that our discussions are going to be advanced if union rivalries between your unions and the CSN form the subject of our conversation. I think the members of the Committee have to assume, and I personally assume it without difficulty, that the CSN is a good union just like every other union and that it makes mistakes just like every other union does—yours too. I have never known any human organization that does not make mistakes.

I would like to appeal through you, Mr. Chairman, to Mr. Thibaudeau and the others not to get this Committee into the jurisdictional fracas that unions get into outside because it is not going to help our discussions, and that we make no accusations against other unions doing this or that because I suspect that none of us are pure in this rivalry that goes on. I think we would do much better if we keep to the question of the advantage or disadvantages of this Bill. I would like to appeal through you, Mr. Chairman, to Mr. Thibaudeau and the others to refrain from arguing about opposition one way or the other because we will never get anywhere.

[Translation]

Mr. Thibaudeau: Just a moment, I am not accusing the CNTU. The CNTU has some things to its credit, it has rendered many services to the workers. I am not accusing the headquarters of a union. I am saying that that bill will promote inter-union wars. I am not accusing the CNTU. I do not want to introduce personalities, I am saying that a particular bill will promote inter-union wars and will promote social disorder in Quebec. I am speaking of the effects, that is not an accusation.

Mr. Lampron: Even inside unions other than the CNTU.

Mr. Thibaudeau: Even inside other unions.

[English]

The Chairman: I appealed earlier to the Committee to try and stay to the relevant sections of the Bill. Mr. Lewis has made another appeal of a similar nature, and I think it is the feeling of the Committee that we should do so. Once again, I would ask you

to do so. Mr. Clermont, your time, even with the interruptions, is running out.

[Translation]

Mr. Clermont: Mr. Chairman, I am sorry if I do not accept your decision, for there have been many interruptions and Mr. Thibault is taking a great deal of time to give his explanations. I have only one further question to ask, Mr. Chairman, and also one correction to make respecting Mr. Thibault's reply.

He said: "Mr. Clermont, in the arguments you are using...."; I am not using arguments, Mr. Thibault, I am asking questions so as to obtain information, just as I did when Mr. Pepin came here to represent the Confederation of National Trade Unions. We, the members of parliament, are studying Bill C-186. It is the draft of an Act, and you must be aware that the draft of any Act, even if passed in first reading may be changed. We had an example of that just last Monday.

• 1205

Here, then, Mr. Chairman, is my last question. In a number of the briefs that we have been receiving the argument used against Bill C-186 is that if there were regionalizing of the national units we would have a great many strikes. And in your brief, Mr. Thibault, you give as an example the automobile industry.

If my memory serves me right, even in the automobile industry, in the United States, after negotiations on a national basis, and after the workers, on a national basis, have accepted the result of the negotiations, we still see strikes, particular employees in a plant have grievances they wish to submit. Therefore, I think that there is always possibility of strike action, even after an agreement at the national level. You have it in the automobile industry. Particular workers in a plant had grievances to submit over and above those negotiated, and they struck more or less on a national basis.

Mr. Thibault: Mr. Chairman, I shall try to make myself clear. It is understood that there are strikes where no union friction exists. That is understood. What we want our statistics to say to Quebec is that for six years there has nevertheless been an inter-union war between the CNTU and the QFL unions.

Four of the five groups involved in the inter-union war ended up by going on strike. Look at the Transport Board which was for-

merly in Quebec. I mean that where inter-union wars are being fought in which the organizers make promises or cause tempers to rise it inevitably occurs that when it comes time to negotiate it is much more difficult. And, inevitably, the chances of strike clashes are greater. That is what I mean, it increases the chances.

Mr. Clermont: Thank you, Mr. Chairman.

The Chairman: Mr. Émond.

Mr. Émond: Mr. Chairman, I think that all are in agreement that at the present time the CLRB has the power to divide up the negotiating units at will, but it has seldom used this power.

In the explanatory notes accompanying Bill C-186 it is stated that the reason for the amendment is to define the powers of the Council. Now, I think it must be realized that, at the present time, there are in the CLRB, two representatives from the CLC, one from the railwaymen and one from the CNTU. Without wishing to discredit any of the members representing the unions in the CLRB, I wonder what you would say if you found yourself in the opposite position and there were three representatives from the CNTU in the CLRB to represent your interests?

Mr. Thibault: It's like this. If you noticed, Mr. Chairman, neither of the briefs you have before you dealt with that problem. I did not wish to increase the size of the briefs and make your work heavier. I left the responsibility of providing explanations on that matter to other organizations.

In that brief I have especially tried to complement other briefs which will deal more particularly with representation, or of the right to appeal. I do not speak much concerning it, leaving to other bodies with which we are affiliated the responsibility of enlightening you concerning those problems. Personally, I have faith in the integrity of the CLRB people, and I do not believe, with the statistics in my hand, and which will be submitted to you in the QFL brief, that the CNTU has been unfavourably affected by the present system since many of the commissioners, even those from the CLC, have agreed with the CNTU against the CLC. You will see the statistics from the past.

Mr. Émard: We have already seen those statistics.

Mr. Thibaudeau: You will be able to study them I have not done so much myself.

Mr. Émard: The cases in which the CLRB sustained the CNTU against the CLC, had been settled in advance, or again, as the CUPE. You received accreditation yesterday because you had the majority of the members. It was so easy to decide that, in some of those cases the CLRB rendered its decision in favour of the CNTU. I do not want to speak at length on that matter.

Mr. Guay: No vote was taken.

Mr. Émard: I would repeat once again that contrary to what the members here who send us cards, seem to think, Bill C-186 will not oblige workers to divide. The CLRB will be able to divide the workers that want to be divided; it will grant them greater liberty of association. I think that that is also a principle which the unions recognize; that the workers are entitled to opt for the union of their choice.

• 1210

Mr. Pelland: Honourable Member, I believe that Bill C-186 was proposed after the famous labour union battle at the CBC.

Mr. Émard: I agree.

Mr. Pelland: And I must confess, as an employee of the CBC, that we have made a funny choice of unions. First, we had the *Syndicat canadien de la télévision*; our second choice was with the CNTU; our third selection was the *Syndicat canadien de la télévision*; our fourth choice was again with the CNTU and our fifth was the Canadian Union of Public Employees. Furthermore NABETT did some recruiting. Well, honourable Member, I am sorry but I believe that to enact a law to tell people that they are free to choose is useless, because the Canada Labour Relations Board has presently the authority to divide the national bargaining unit when it is proper.

The CNTU which did not sit on the Canada Labour Relations Board obtained certification for a group of CBC employees. These employees represented by the CNTU are maintenance men and elevator operators. But this is a particular case, in a funny way. These

trades will be found on the pay-roll only in Montreal. In all the other centres, the CBC farms this work out to private enterprise. I am sorry when I hear the boys at the CBC complain about freedom of association, but we had five chances to do it. We even had a vote between the two unions: IATSE and ours, IATSE had a kind of collective agreement with which we did not agree altogether concerning structures, but the fact remains, that the employees have had a choice. And the Quebec employees voted, even then, in favour of a Canadian union to the prejudice of IATSE and of the CNTU. Personally, I find it very funny that the CBC workers were used as an excuse to fault the problem. A union in Hong Kong, with all the necessary structures, could have represented correctly the employees of the CBC in Quebec, they would have drawn absolutely extraordinary benefits from it. Therefore, it is not because we are French-Canadians, people of Quebec, and because we want to be represented as such. Give us a union with good structures and I can assure you that you never again will hear about trouble at the CBC. But the CBC people were the ones used as guinea-pigs. And how!

Mr. Lampron: Consider section 9 where it is stated that the CLRB has the right...

The Chairman: What paragraph?

Mr. Lampron: Paragraph 9 on page 418.

Mr. Thibaudeau: No, no, I am speaking about the old law...

The Chairman: The old law...

Mr. Lampron: ...it is stated that:

the Board can, before certification, if it deems it advisable, include other employees in the unit or exclude employees from this unit; and it must take all the measures it deems appropriate to determine the wishes of the employees in the unit.

What does this mean?

Mr. Émard: Yes, I agree with you about this. But it happens that the CLRB does not use this right. This is the reason why we want to specify in the Bill that, on certain occasions, it should do it. It does not do it because there are no precedents, it has never been granted before. Therefore, we say that the CLRB should revise and reconsider the

manner in which it grants certification, and take also other factors into account.

Mr. Thibaudeau: If it does not do it, it is because this is not in the interest of the parties.

Mr. Pelland: Then, you want to indicate the line of conduct of the CLRB?

Mr. Émard: We can help it.

Mr. Pelland: Do you admit that the Canada Labour Relations Board is a tribunal which, normally, has a certain integrity, a certain responsibility; a responsibility given to it by the Government? This means that all the tribunals, all the agencies, all the commissions presently sitting do not have your confidence?

Mr. Guay: There are rights of appeal, same as with other tribunals. There is the Superior Court, the Quebec Appeals Court, the Supreme Court.

Mr. Lewis: Not always. There are administrative tribunals.

Mr. Émard: I would like to point to you, according to what you have told me, that IATSE continued to represent some of your employees for three years, even if they did not do their work at all, and you agree on that, and so do we.

Mr. Pelland: Their certification was continued. Before withdrawing a certificate of recognition, the Board must judge and see if in reality the union requesting certification meets the requirements of the Law. This is the reason why IATSE remained. And, in the first presentation of CUPE, it was shown clearly that IATSE did not represent the majority any more.

The Board then proposed an alternative: either withdraw certification from IATSE, or have the members choose between the union filing the request and the one already in position. At the time when the difficulty became much greater, the Board decided to hold a referendum among the production employees, asking them to indicate by a yes or a no if they wished to have IATSE as their bargaining agent. Out of 1,700 votes, 1,136 said "no" to IATSE. Then, at that very moment, the Board withdrew certification.

Mr. Émard: Nevertheless, this lasted for more than three years.

Mr. Pelland: But you agree with me that during those three years, there always was a union filing a request, precisely, to regroup... Then, the Board should have heard them first and withdraw it at that time if it judged it advisable. But the CNTU did not represent a majority in the unit of employees for which it was filing a request.

Mr. Émard: Another thing that I want to point out: most unions are not ready to accept certification on cultural or linguistic grounds. But, for example, if we examine the division of certification at the present time, we notice that some unions are organized on a trades basis, others on an industrial basis, some are certified according to industry and others yet by work classification. Therefore, at the present time, there is not a single certification unit, but a group of them, and I miss some.

Mr. Thibaudeau: Honourable Member, if you look at the list you have just given, you will find that they cover all the conditions of labour: trades, industries. For example, plumbers group themselves by their trade, others by the plants where they work, but this is always done for union efficiency. When a labour contract is negotiated, the negotiations involve hours, salaries, leave, bonuses. People think that, maybe, by grouping themselves by trade, they will be stronger to negotiate about hours, bonuses, etc.

But by culture, what is that doing here? The man who goes to paint a building in Toronto, he does it, all the same, in silence, not by talking. I do not at all see how we will reach negotiations. Culture is not a condition of work. I think that it is not at the union level that we can defend culture. It is in federations or in confederations. Not with a document that is called the collective work agreement.

• 1215

Mr. Émard: But from what you have said previously, you did not agree too much with labour unions by trades because, there again, bargaining units were divided.

Mr. Thibaudeau: Yes, and even in trades, I think it is unfortunate. It is a return to the last century.

Mr. Émard: I agree with you on that. You have been in the labour movement for quite some time, you are aware of all the battles between the AFL and the CIO, when indus-

trial unions began, it is not necessary to remember all that...

Mr. Thibaudeau: Honourable Member, are we going to bring in another element of division? Are we going to bring in a new one? It is not already divided enough, we want to redivide it now?

Mr. Émard: For myself, I believe that we can introduce a new one. Your principles are based solely on American trade-unionism. But American trade-unionism is not the only one on the world. You mention yourself a moment ago that in Europe, in France, for example, there are trade unions, you have the communists, you have the Christians, you have three or four unions representing, for instance, the employees of the railroads. But when these trade unions get together for negotiations, they are all in agreement.

Last year, I was asking a representative of the French Government passing through Canada, if the fact that the unions had such different principles caused problems, and if, when they had to negotiate, they had to separate?

This Frenchman told me: "All the workers in these trade unions, when they appear before us to negotiate, are as thick as thieves."

Mr. Thibaudeau: Honourable Member, in this connection, I am a member of an international executive. And it is in France that trade-unionism is weakest. I am a member of an international executive of public services.

Mr. Lewis: Very weak.

Mr. Thibaudeau: And it is the weakest in the world.

Mr. Lewis: There is no law on labour relations in France.

Mr. Thibaudeau: No. I know it. And, honourable Member, I could tell you that the CNTU, in its Quebec philosophy, defends the North American formula. It will defend it until death.

Mr. Émard: Agreed, agreed.

Mr. Thibaudeau: It will defend until death. Then why should it not defend it at the federal level?

Mr. Émard: But you seem to admit that the CLRB can divide as it wishes, as long as the union is affiliated with the CLC.

Mr. Thibaudeau: No. No. The CNTU has the right to go and organize labour unions in Vancouver and in Winnipeg. It has this right.

Mr. Émard: Yes, but it does not have it...

Mr. Thibaudeau: It has it, all it has to do is to have organizers open offices.

Mr. Émard: But does it have the possibilities of doing it?

Mr. Thibaudeau: Well now, this is different.

Mr. Pelland: The Confederation of National Trade Unions covers the entire country.

[English]

The Chairman: Gentlemen, for translation and transcription purposes, one reply is preferable to four simultaneous replies. Therefore, I would ask you to decide who will reply, and if there is disagreement with the reply you all will have rights of reply.

[Translation]

Mr. Thibaudeau: Sir, it is understood that this bill is intended to help the organization of the CNTU in Quebec.

Mr. Émard: Yes. I agree and I will say so openly.

Mr. Thibaudeau: To help the congress.

Mr. Émard: I agree. I think this should be done, too.

Mr. Thibaudeau: It is a bill showing favouritism.

Mr. Émard: No. It is not a bill showing favouritism.

Mr. Thibaudeau: It is a bill showing favouritism toward this congress.

Mr. Émard: It is the only independent Canadian union that we have in Canada.

Mr. Thibaudeau: I beg your pardon. The Canadian union to which I belong is certainly not American.

Mr. Émard: You are affiliated with the CLC, the Canadian Labour Congress. Well, who controls the Canadian Labour Congress? I will show you the statistics: they are all representatives of international unions, except for two or three.

Mr. Thibaudeau: I tell you that we are completely autonomous within the CLC, as

regards our internal organization or policy, and everything. Completely.

Mr. Émard: Why do you not organize locals across Canada in a strictly Canadian union? You know that Canada...

Mr. Thibaudeau: This is what we are doing.

Mr. Émard: No. Canada is the only country in the world where the union movement is controlled by another country. Think of another one. It is the only country in the world.

Mr. Thibaudeau: Sir, the Canadian Union of Public Employees is strictly, entirely Canadian. We unite with other unions which have Canadian offices in order to defend certain things, but all our internal organization, all matters regarding negotiations, are strictly Canadian. And the CNTU recognizes us as a strictly, totally Canadian union.

Mr. Pelland: In the CBC you have a union...

Mr. Thibaudeau: There is nothing American about us.

Mr. Pelland: ... which is completely and essentially Canadian, known as ARTEC.

Mr. Émard: I realize. There are others, but not all that many. You represent 22,000 members? Out of how many Canadian workers?

Mr. Pelland: The Canadian Union of Public Employees represents almost 125,000 members, sir.

Mr. Émard: What is the membership of American unions in Canada?

Mr. Thibaudeau: American unions are not a problem. This has nothing to do with it.

Mr. Émard: It certainly is a problem. It is a problem because we should have some nationalist feelings. If we cannot separate from the United States financially, we should at least do so in our unions, because it is possible there.

• 1220

Mr. Thibaudeau: So, the English Canadian union, the English Canadian worker ... (technical difficulties) ... American unions, and only the French Canadian worker could have a Canadian union.

[English]

The Chairman: Can I interrupt? Again, it is a very important point, but I do not think it

is really germane to the Bill, and I would appeal to you to return to the Bill.

Mr. Lewis: I have had to exercise self-control long enough. Do not prompt me any more.

Mr. Émard: Well, you have many opportunities and you take advantage of them.

[Translation]

On page three of your brief, you say that a first machinist in an automobile plant in the United States or a first machinist in the Ste-Thérèse plant or the Windsor plant do similar work and should logically enjoy the same working conditions, whatever their language or nationality.

I agree with this. You mean, for instance, that the wages should be the same in the United States and Canada. Perhaps in the automobile industry, where we have free trade, that would work. But in an incalculable number of Canadian industries, it is absolutely impossible for us to have the same wages as in the United States.

Mr. Thibaudeau: I agree. All I mean is that, logically, there should be equal pay for equal work.

Mr. Dean (Assistant Director CUPE, Quebec): Mr. Chairman, with your permission, I have not contributed anything so far, but I feel that the fundamental problem, whether international, national or regional, is that the union movement should take into consideration the nature of the enterprise in which it is developing.

If the enterprise is international, like General Motors, it is somewhat ridiculous to say that the tail should wag the dog. Decisions that are made within General Motors, at the headquarters of God the Father of General Motors, will certainly affect any given plant, whatever the location of the plant.

If we are discussing a national Canadian enterprise which is nation-wide, we should be discussing a nation-wide Canadian union for the simple reasons of union effectiveness and common sense, logic, and efficiency in the actual administration of the enterprise, because we are discussing working conditions. And if the enterprise is provincial, we should speak of a provincial union.

If the government of Quebec nationalizes the French network and it becomes Radio-

Quebec, we will no longer be concerned with the CBC as such in Quebec. The position of a Quebec union within this new Radio-Quebec might be logical then. But the CBC is an enterprise. Someone mentioned the railroads. It is a national enterprise for the moment until the problems of Quebec nationalism are settled in some way or another.

Therefore, from the viewpoint of simple efficiency, common sense and logic in the internal administration of the enterprise, there is a great deal of strength in the argument that when there is union unity within an enterprise, it is because there is management unity.

Since the CBC or the railroads are enterprises of national scope, it is hard to imagine that at any given point, someone will seriously claim that a machinist in Montreal, a machinist in Toronto or a machinist in Halifax should have completely different working conditions, as if they were not working for the same enterprise.

There may be minor local differences, but they have nothing to do with language or culture. It may be a way of turning bolts, a way of describing one's job, or perhaps a way of doing job assessments. Within a single enterprise like the CBC, like a railroad, dividing up people who do the same kind of work from one end of the country to the other would be like having two, three, four or even five job assessment systems instead of one, with all the illogical results that this would involve from the point of view of administration of the enterprise.

When you are discussing the working hours of the fellow who paints the wall, the one who runs around with parts of the sets for television, the fellow who sweeps the floors in some plant or other or for a railroad company, there is certainly a strong argument of logic, efficiency and peace. Imagine the situation with two unions representing the same group, the same type of work for the same employer. The time for negotiations arrives. Each union wants to prove that it is better than the other as political parties do, and this is only human. Then comes salary bargaining. A union, in accordance with logic and good sense, decides that a particular increase in salary, for example, is reasonable. Our members are satisfied; economic problems, the economic situation, the company's situation, etc., are taken into account. The

other union, because it wants to prove that it is better, disregards logic and brings about a stupid strike which has nothing to do with the opportunity of a salary increase. But you have the situation where another union, as another political party and for the same human and understandable reasons, decides to prove that it is better than the other. It then induces a strike which does not take into account the logic of a salary increase, because the second union wants to bargain for 5 cents more for the purpose, maybe, of eventually organizing the other group of employees in the same sector. This is very human, this is very normal, but this situation brings about futile, unnecessary and ridiculous strikes. One tries to outbid the other.

• 1225

Mr. Guay: We are not concerned with the Bill any more, from what I can see, but with interunion conflicts.

Mr. Thibaudeau: You will increase them.

Mr. Dean: If Parliament passes such an Act, instead of leaving this Committee to do its work, it directs in advance by this legislation, for all practical purposes, a Committee, a Commission in its administrative function.

I can imagine, without changing that law, for example, a new group of workers joining the first. But we seem to favour the division of already existing units. I believe that the workers have shown it once again in the sector governed by federal legislation on labour relations. But I think that, with its present powers, the Canada Labour Relations Board could, at a given moment, tell a group, until then not unionized, submitting a request for certification, the Board, I repeat, could say: "We agree, we will create a regional unit." But to divide already existing units is another thing.

Mr. Guay: A union will be formed from unions.

Mr. Dean: This is what does not make sense. In the past, the CBC had inefficient unions which, among other things, did not respect the French-Canadian identity of its Quebec members.

But to claim that one does not go without the other is to mix up the two problems. We can have a very efficient pan-Canadian union

which takes into account the cultural facts, the rights of Canadians, which provides, in its internal structure, a system where French-Canadians can find a means of expression. You are shifting the problem when you say that, because we have had inefficient unions which did not respect their French-speaking members, we should throw everything overboard and use as a base for a new union structure the culture and desire of a few railwaymen who were mentioned a while ago by the gentleman. There certainly are dissatisfied railwaymen. We have approximately 480 members out of about 700 workers. This means that among the 200 or so employees who did not sign a CUPE card, there are maybe some indifferent people, but there are certainly others who would tell you if they had the chance: "Sir, vote for or vote against this Bill." But the fact remains that for the majority, and it is a strong majority, as was shown many times during the last four years, this uncertainty remains. We, who are red-hot French-Canadians, say that what we want is an efficient union, from the pan-Canadian point of view, which also represents our cultural fact. But we should not pretend to ignore union efficiency and throw everything overboard for a question of nationality, of culture.

[English]

The Chairman: I hope, Mr. Émard, that is a satisfactory answer to your question.

Mr. Émard: Yes, it was a long answer.

The Chairman: I urge that questions be brief and to the point, and that the answers be brief. We still have Mr. Reid, Mr. Munro, Mr. Gray, Mr. Guay, Mr. Lewis, and we have only 20 minutes left. We can start again this afternoon, of course, but...

Mr. Gray: Mr. Chairman, that is what I was going to suggest. I am suggesting it even more formally. Even though we have invited the group of radio unions and broadcast unions that was with us last night to come back in case we have further questions, it may well be that we will not take the whole afternoon with them. I think we should agree right now that we will continue with this very important group this afternoon.

The Chairman: Yes, that is what we are going to do, but we are going to do both of them. I appeal to the members of the Committee to keep their questions to the Bill; I

appeal to the witnesses to keep their answers brief, and we will hear both of them.

Mr. Lewis: Mr. Chairman, may I make this suggestion? If we waste time in the House this afternoon, and I suspect we will as we did yesterday, but in any case if we do not have Orders of the Day questions, perhaps we could agree to meet at 3 o'clock instead of 3.30 p.m.

The Chairman: Yes.

Mr. Lewis: We will know within the first half hour whether the marathon speech-making continues today.

Mr. Reid: Mr. Chairman, may I go a little further and suggest that members who ask questions be limited to 10 minutes on the first round, and on the second round perhaps another ten minutes? Perhaps this would speed it up a little.

Mr. Lewis: A little impossible.

Mr. Munro: I do not mean to be excessively critical of the witnesses but that would allow us one question. The type of answers we are getting are pretty long.

The Chairman: Let us continue. Have you finished, Mr. Émard?

[Translation]

Mr. Émard: I have some remarks to make and a question to ask.

If we continue your argument, General Motors, for example, which has a plant in the United States and one in Canada should have the same union. General Motors plants in Europe and in Asia would also have to have the same union as in the United States.

• 1230

You stated a while ago that if a union of another allegiance took part in the negotiations, this would cause all kinds of problems and you would certainly have strikes. For myself, I believe that a union which would call utterly futile strikes for the simple reason of outdoing the other, as you have mentioned, this union would not have the opportunity of calling many strikes. The workers are not crazy either and when they noticed that the union had called a strike to show its superiority over the others, you can be sure that at the next contract negotiations, another union would be there to do the bargaining. Person-

ally, I am convinced that you could have more than one union on a bargaining committee and maybe this would be better for the negotiations. I do not believe that it is absolutely necessary that the unions be affiliated with the CLC or the American Federation of Labour or the CIO.

You have said that you do not agree with the various Bills presented, but the fact remains that the CNTU is, all the same, surely not satisfied with the rulings made by the CLRB. The Government has tried to do something better. But, what have you to suggest if you are not satisfied with Bill C-186? I think that you should at least propose something.

Mr. Thibaudeau: Honourable Member, with regards to efficiency, I agree with you in saying that it might be logical to extend unions to the international level as the companies themselves are established at the international level. I believe that it might be logical, but you must take into account all the questions of boundaries and national integrity. Evidently, capital comes in. And, from the point of view of pure logic, I agree with you.

To solve the problem, not only the plants should be divided, but also the company's plant itself should be divided inside. In a plant employing 4,000, why should 1,000 employees not be members of one union and 3,000 of another? You seem to think, as you say, that this would not be a bad thing. We have lived through this experience.

Mr. Émard: Yes, but you can go too far in any field. You know that.

Mr. Thibaudeau: We lived through it in Quebec. We, representatives of five labour organizations, were seated at the bargaining table at Hydro-Quebec. What did it give us. While I was on the tenth floor, the representatives of the CNTU were on the twelfth; those of the IBW were on the ninth and the negotiations lasted for months and months.

An hon. Member: It is the worker who pays for that.

Mr. Thibaudeau: This was Hydro-Quebec. In the middle was the most important organization at that moment, ours. The representative of that organization was sending messages to negotiators on other floors to make the same offer. Upstairs, they were saying to themselves: "Will they accept it?" And downstairs, they were asking themselves the same

thing. Everyone refused it. Delays of eleven and of eighteen months were caused and, at one time, we nearly had an electricity breakdown because of the lack of communication.

Mr. Émard: Yes, but you could have formed a bargaining committee just the same!

Mr. Thibaudeau: Do you think that Mr. Jean-Robert Gauthier, who was the CNTU representative and myself would have accepted to sit one beside the other? Do you think our words would have been entirely checked? There would never have been any agreement between us. The shape of the law shows that we are going towards a labour contract. In France, there are no labour contracts. Pressure is applied, and then legislation changes the working conditions.

Mr. Guay: You said a while ago that at Hydro-Quebec, there were five labour organizations; at the CBC, if we count yesterday's certification, there are also five.

Mr. Thibaudeau: Honourable Member, there is a great difference between labour organizations covering different fields. At Hydro-Quebec, the lineman in Montreal was represented by myself and the one in Three Rivers was represented by the CNTU. However, we were both speaking about linemen. At the CBC, the division is by trades. It is not the same thing at all; it does not involve the same...

Mr. Guay: These are not the same consequences...

Mr. Thibaudeau: If the CNTU could have won the adherence of the white collar workers at Hydro, and us, of the trades people, this would not have caused much drama at the bargaining table because these are two distinct groups.

• 1235

[English]

Mr. Reid: Mr. Chairman, I would like to do something unusual and talk about the Bill.

The Chairman: It ought to be a welcome relief.

Mr. Reid: First of all, I ask Mr. Thibaudeau whether or not he agrees with what has been said several times, that clause 1 of the Bill adding subsection (4a) to the Industrial Rela-

tions and Disputes Investigation Act does not add any new powers to the Board?

[Translation]

Mr. Thibaudeau: I simply say that this gives to the CLRB a clear indication to say: "Set aside all your experience in the field of employer-employee relations and aim at this." This gives it an indication. After all, Parliament is speaking. This gives it a definite indication and the CLRB would be faced, at that moment, with a great many requests. As at the CBC, at that moment, Winnipeg could have its own unit; Toronto could have its own and so on; they would have to be granted. Parliament will have supplied the indication that it agreed.

[English]

Mr. Reid: My point simply is that if this clause adds no new powers to the Board, how can you justify that argument?

[Translation]

Mr. Thibaudeau: This censures the way in which the CLRB has previously administered its law. It is now told to administer it differently. It is told exactly how. It is told to administer its law differently. This is what it is told. It will be forced to conform to it because it is Parliament who tells it: "Administer your law differently."

[English]

Mr. Reid: The point I am making about this clause is that so far everybody has agreed that it offers no new powers to the Board, and I want to know where you find the specific directions which you have indicated not only in your briefs but also in your comments to other questioners and to me. Where do you find this direction? Where do you find the direction that the previous precedents of the Board shall be upset and declared null and void? Where do you find an indication that the criteria that have been used for 20 years will be turned aside? If you are going to make these statements, surely you must be able to produce evidence.

• 1240

[Translation]

Mr. Pelland: Honourable Member, you mention the fact that this does not change anything. I am asking myself exactly that, why, precisely, you want to draw our attention to such a law. All the same. Under the

circumstances, we should have a bit of logic. If you think that the law does not change anything, or does not seem to offer any guidance to the Board ...

[English]

Mr. Reid: I did not say that; I did not say that at all.

[Translation]

Mr. Pelland: You want to know our opinion, namely, if we think that there is a definite indication which would change something in the operation of the Canada Labour Relations Board? Until to-day, the Canada Labour Relations Board has very simply said that it could divide bargaining units if it had the proof that this was necessary and that this was intended to favour the workers. Then why pass a law to show it something? It is already doing it. It was then unnecessary to indicate it in the law.

[English]

Mr. Reid: That is my whole point. If they can already do this, where in the Bill do you find evidence that it will be done? In other words, the Bill is permissive. I think the argument you advanced, why bring in the Bill if it is not going to change anything, is a sensible and a logical one, but given the fact that our boards and our courts according to the legal experts on this Committee, Mr. Gray and Mr. Lewis, have indicated they do not pay any attention to the comments which we make in Committee or in the House of Commons, my argument is that if this Bill passes this is what the Board will have before it, and therefore this is what it will make its judgment on.

Therefore I would like to know whether you are making allegations or whether you are merely expressing your fears. If you are saying, I fear it will go this way, that is a position I can understand. If you are saying, it will go this way, or the Board must do this, then I want a clear indication of where you find this in the legislation.

[Translation]

Mr. Thibaudeau: Listen. It seems to me, from the words you are using here, that if you are using them, this means that you want to supply an indication, otherwise Section (4a) would not be in this Bill. There would not be any...

[English]

Mr. Reid: In other words, you are not making allegations or saying what the Bill will do; you are expressing the very real fears you have after having gone through a very bitter warfare over the past four years. I think that is a very acceptable position and I have no quarrel with it.

• 1245

I would like to move to clause 2 of the Bill which deals with the addition of the second Vice-Chairman. Do you have any particular objections to that clause and if so what are they?

[Translation]

Mr. Thibaudeau: As I have answered the Honourable Member, I did not speak about it in my brief because I very simply left to the other labour organizations the care of speaking about it. And I do not think, personally, that it is necessary to adopt a law to decide if a person, whether French-speaking... It should not be necessary that we adopt a law.

[English]

Mr. Reid: It could be done by changing the Chairman or the Vice-Chairman. Do you have any objection to the Canada Labour Relations Board meeting in panels to make decisions?

[Translation]

Mr. Thibaudeau: On that point, sir, according to the reports I have received, the CLRB is ahead on its work and there are no cases pending. And in this connection again, I have left the task of presenting a full report to those who have done research on it. The representatives of the QFL have studied this problem closely. Those from CUPE and the national office will be appearing before you in March, I believe. The representatives of the CLC will also be testifying on these points. It is for this reason that I have kept in particular to a study of the problems affecting us most closely, that is, section (4a).

[English]

Mr. Reid: That is fine. I accept that, then. Mr. Chairman, I will conclude my questions by putting one of the dilemmas which you have to face to Mr. Thibaudeau and the other gentlemen who have accompanied him. It really comes down to this: where unions that are national in scope move into particular areas such as the Province of Quebec, what do you do if a union which has accepted the

opportunity and has been certified by the Canada Labour Relations Board for that purpose does not accept its responsibilities—and I will be quite blunt—in dealing with its French-speaking employees? In other words, if it does not provide them with the information in both languages which is required, how do you resolve this dilemma? I am asking you directly because I understand this is one of the reasons there was so much dissatisfaction with IATSE, I believe it was. How do you deal with this?

• 1250

[Translation]

Mr. Thibaudeau: Sir, I would like to point out that the Toronto members of IATSE were very unhappy and they are not French Canadians. They were the ones who, on four different occasions, attempted to start the movement. These are Toronto people, English Canadians. How do we resolve the problem? Simple. A union which does not do its job is eventually replaced by one that will be more effective. This has often happened in Quebec.

[English]

Mr. Reid: My question referred to a specific incident and, as I said, I was being very blunt. It referred to a specific incident and the fact that a national union finds itself incapable of dealing properly, or lacks the will or does not want to deal properly, with its French-speaking members. What is the CLRB to do in this case? What is your solution to it? This is one of the things that forced this Bill to the surface.

[Translation]

Mr. Thibaudeau: Sir, I would like to point out that the CNTU is not the only defender of the rights of French Canadian workers in Quebec. The QFL, at its last congress, adopted resolutions for the establishment of a code of ethics, a code of effectiveness. The QFL itself has fought and has kicked out unions which were not serving the workers adequately. This happened at Trois-Rivières recently. This was an affair which came under provincial jurisdiction in which the QFL supported the metal workers. It was an interunion battle against another union affiliated with the QFL. On investigation, it was learned that the workers were being poorly served. The QFL made a ruling and kicked out the other union at Trois-Rivières

and replaced it. This happened. It happened again at Sherbrooke just recently.

In short, the QFL is a federation which is working for the protection of French Canadian workers within the affiliates of the CLC.

[English]

Mr. Reid: But this is the problem. You are dealing with a national union and there is dissatisfaction in a particular local for very good reasons in that local. How do you upset the whole national bargaining system in order to provide one local with what should be its rights?

[Translation]

Mr. Thibadeau: Sir, when the members of IATSE were unhappy, a national union kicked it out. I am speaking of ourselves. We kicked them out nationally. The movement began in Quebec, and then progressed. In short, IATSE is no longer involved with the CBC. The Federation...

Mr. Lewis: May I ask a supplementary question?

[English]

I think Mr. Reid has asked a question which really goes to the heart of the thing.

• 1255

[Translation]

I am sure that you understand English.

[English]

Is it likely in practice that a union which is efficacious, which is good in Toronto or Vancouver—in other words, a union which gives service to its members—would fall down only in Quebec, or is it more likely that a union which has not sense enough to deal with its members in Quebec properly is likely to be equally bad in the rest of the country?

[Translation]

Mr. Thibadeau: Look. All the national or international unions with which I am familiar, and which develop on a national scale, are either bad all over, or good all over. The same internal policies are involved. IATSE was bad everywhere in Canada. However, other unions in the CBC are as good in Toronto as they are in Vancouver. The same policy is involved. You cannot be bad in one place and good in another. The same policies are involved.

Mr. Lewis: This is possible, but not...

Mr. Thibadeau: This is theoretical, very theoretical.

Mr. Lewis: It is possible.

Mr. Thibadeau: This situation has never arisen. It is theoretical.

Mr. Pelland: Could I add one point? You were saying, just now, that the CLRB granted, say, a union, the right to represent certain employees. And before granting this right, the employees must have made their wishes known. In the case of the CBC, IATSE was unsatisfactory throughout the country. The employees across the country decided against IATSE and they favoured another union which was later certified by the CLRB. I feel that the basis, if you will, for the change, came from the workers.

Mr. Énard: It took 4 years, however.

Mr. Pelland: It took 4 years. You have to take into consideration the entire situation, at that point.

Mr. Thibadeau: On the provincial level, in Hydro-Quebec, for example, it took six years. It is not only the national level on which these things take time.

Mr. Pelland: All the more so, sir, since you say it took 4 years. Moving the problem to another political level was surely not of any use, given the circumstances.

Mr. Guay: You say: "Moving the problem to another political level". I may have one final question to ask you.

Already, the representatives of two or three associations have appeared to testify before us and have told us that we were making the CLRB political. Just a moment! We have been told, as well, that we are playing politics with it. I am referring to the representatives of the association who appeared before us yesterday evening. Just a moment, I am coming to my question. You are afraid of politicians playing politics, but how do you account for the fact that the CLC supports the NDP?

Mr. Pelland: I can explain this. I am not accusing politicians, in view of the circumstances. My accusation is against the *Syndicat général du cinéma et de la télévision* (Film and Television Workers General Union) which, when its demands were turned down, simply took the problem and made a political problem of it. Legislators are elected to

accede to the requests of their voters, if you will. I am happy that you have become aware of the problem. You are doing your job. But this is what I am protesting. I am concerned because, at a given point, responsible workers who claim to be union officials, instead of solving their own problems, ask members of Parliament to settle them for them.

In my opinion, this is not a job for members to do, under the circumstances. The SGCT-CNTU is moving the problem to another level. If the problem is limited simply to a question of union effectiveness as regards the IATSE, it should be settled among the employees, among the employers, among the workers. These are our problems and the government should mind its own business and take care of other problems.

Mr. Guay: You are also asking us to settle the problem.

• 1300

Mr. Pelland: At least we do not claim to be doing so.

[English]

The Chairman: I think there is an interesting moral in that answer.

The Committee will adjourn until three o'clock. Mr. Lewis, I hope you listened to that last answer.

Mr. Lewis: I beg your pardon?

The Chairman: I hope you listened to that last answer about the role of the trade unions.

AFTERNOON SITTING

• 1525

The Chairman: Mr. Reid, would you like to continue with your questioning?

Mr. Reid: When we concluded a few hours ago I was trying to ask the witnesses about the fact that they had accepted the North American solution to a North American problem, which is a national union to deal with national enterprises. Is that correct?

Mr. Munro: You just have to read little speeches.

Mr. Reid: Your national units or national businesses, but I would like to know if that is a correct interpretation of the evidence which you have given to us today?

[Translation]

The Chairman: Do we have simultaneous interpretation?

Mr. Thibault: Yes. North American trade unionism developed in two ways: industrial unionism has been developing since 1936 or 1937; before that unionism was based mainly on the various crafts. There was a great change once industrial trade unionism developed. At the present time, this problem arises: the union which was certified yesterday by the CLRB is industrial in character. It is not a union based on crafts. At the CBC, one of the problems was that a whole series of unions tried to build themselves on the basis of crafts. This is a new trend toward unity, but going in another way. Here is the nature of the problem in Quebec. If an association wants to break up bargaining units, and attempts to build an industrial group separate from the rest of the country, we must necessarily ask ourselves whether in this particular case, both groups would negotiate for the same type of people according to the same job classifications during the bargaining. This is the basic principle we uphold. I believe incidentally, that, the evolution will be peaceful. Where there is an employer, if we want the union to provide all its power of normal negotiation, then the union must be unified in order to face the employer. This is the basic thesis of industrial unionism. That is why we say that as long as the CBC constitutes one employer with employment policies, it becomes increasingly necessary that one union rather than many should face the one employer. The same applies on a nation-wide basis, since there is a national employer. At Hydro-Québec, the same tendency developed. The employees of the city of Montreal, for instance, and similar units, have a single union to deal with the employer.

[English]

Mr. Reid: Yes; therefore French-speaking Canadians have found no difficulty in being members of national unions where their interests are properly looked after by the national or international union. I will give you two examples, the parent organization, CUPE, in Hydro-Quebec and the United Auto Workers in the GM plant at St. Thérèse. Is that a correct statement?

Mr. Robert Dean (Assistant Quebec Director, CUPE): He did not understand your question.

Mr. Reid: I am sorry, I will rephrase it. The French Canadian worker in Canada has had no difficulty involving himself in national unions such as CUPE, the Hydro Quebec struggle or in an international union such as the United Auto Workers of America at St. Thérèse as long as his particular needs and interests are looked after by the union concerned.

• 1530

[Translation]

Mr. Thibodeau: I would like to understand the meaning of your question.

[English]

Mr. Reid: I am just pointing out to you that there is no need for separate bargaining organizations for the Province of Quebec if the national unions and the international unions do their jobs properly and the French Canadian workers are fully represented.

[Translation]

Mr. Thibaudeau: That is correct.

[English]

Mr. Reid: That is correct, then.

The last sequence of questions I would like to ask, Mr. Chairman, are based on the appeal clause. One of the basic reasons this clause was included, I understand was because there was some suspicion that the Canadian Labour Relations Board as it is now set up, was too much under the influence of employers and employees, without the public interest being adequately represented. Would you have any objection to the Canadian Labour Relations Board being established on a public interest basis rather than on an interest basis?

[Translation]

Mr. Thibaudeau: I will answer by citing examples. The best rights of appeal are those recognized by the courts. This morning we spoke of courts where we could make appeals. Such a case occurred in Quebec where the CUPE presented a request to the courts some four years ago. Certain people questioned the ruling of CUPE and appealed to the courts. For the past four years, the employees of the city of Quebec, that is the manual employees in the City of Quebec, have had no union because they made an appeal before our courts and the affair has been delayed in court for four years. All this happened because of the right of appeal.

Mr. Lewis: You are not answering the question which the member asked you.

[English]

Mr. Reid: No, my question was would you have any objection to changing the character of the Canadian Labour Relations Board from an interest group made up of employees and employers to what could be loosely defined as a public interest board which would first of all take into consideration the public interest and, secondly, the rights of managers and employees.

[Translation]

Mr. Thibaudeau: I have not considered this question thoroughly. I leave this study for other national bodies.

[English]

Mr. Reid: The reason I asked this question was that by setting up an appeal section composed of two people who have no connection with either the employees or the employers would, in effect, set up a public interest type of board, and I wanted to know if you had any objection to that concept? That is what is being done in the United States.

• 1535

[Translation]

Mr. Thibaudeau: I believe that if you adopt the American formula completely in which the official has a great deal of power and only certain cases go before the boards, it will change the entire nature of our legislation. Perhaps here this famous task force will arrive at a recommendation, because all this is being studied at the present time. I think that we are putting the cart before the horse. At the present time, a right of appeal brings about delays. However, it is possible to compensate for these delays if everything is changed through speed. I have the impression that Bill C-186 is an attempt to fill some small holes. The overall problem has not been studied. You deemed it advisable to establish a task force which is made up of experts. The government appointed advisers to the task force, such as the president of my union, the president of the CNTU and others. I think it would be very wise, very sound before making any changes in legislation which are called minor or which seem minor but which might have quite serious results, to wait for the report of the study made by those experts, i.e. Professor Woods, Professor Dion and Professor Crispo from Toronto who are all very objective experts. If you like impartiality, you have it there.

[English]

Mr. Reid: My argument is simply that this clause which is of major importance will completely change the whole character of the Canadian Labour Relations Board in the way it does business, particularly when you take into consideration clause IV, which would give the Board much wider powers than it now enjoys to amend its regulations. On that note, Mr. Chairman, I will pass.

The Chairman: May I ask a question for clarification to make sure I understood your answer. There would be no objections from your group with regard to the choices Mr. Reid offered you—a public interest board as opposed to a representational type of board—if the task force, in view of their objectivity and experience, were to so recommend?

[Translation]

Mr. Thibaudeau: I think that the task force's opinion will be considered with a great deal of objectivity by central labour bodies because its work was carried out very objectively, uninfluenced by emotions or struggles.

Mr. Guay: We will not commit ourselves to accepting it before we have studied it.

Mr. Thibaudeau: As for the "task force" especially because of the names that are on it, I don't think we will be able to look at it from a political point of view. I think we should look at it from a technical point of view while considering its effects objectively. I know Professor Woods and Professor Dion very well. I have read the book written by Professor Crispo. These experts are assistants to the advisors for several central labour bodies. Members of the House as well, will also find a very objective study and not, it should be admitted, something which resulted from a war among trade unions. This struggle cannot help but stir up emotions. It is dangerous to adopt an act under the influence of certain emotions.

[English]

The Chairman: I see.

Mr. Munro: At the outset, Mr. Chairman, I will just say in relation to the questions asked by Mr. Emard on the implications of international trade unions in Canada that if there is one union that should not be pursued on this question I think it should be the CUPE Union. If I correctly understood the statements made by your president, Mr. Little, in which

he indicated he would like to see the CLC strengthened in terms of there being less influence from international unionism and the general dangers of the intrusion into Canadian sovereignty by international trade unionism, CUPE is one of the unions taking the lead in this type of approach. Is that not correct?

• 1540

[Translation]

Mr. Thibaudeau: That is true. Our union is very Canadian, and we do want stronger Canadian unionism or else a greater independence for the Canadian offices of international unions. This exists in certain international unions such as the metal workers. I would say that they have complete independence in Canada. This is true for some other unions as well.

Mr. Émard: Would you urge complete independence?

Mr. Thibaudeau: We must always remember that we are dominated by American finance. Everyone will admit this, I'm sure. Where workers are employed by companies under American management, there will have to be a great deal of co-operation among trade unions dealing with these firms, in the elaboration of their policies. As examples let us take Continental Can and American Can: these are American firms. The central labour organization protecting these employees, the metal workers, although having complete independence at the Canadian level, have all the necessary means to defend workers effectively here in Canada. It is for this reason that international unionism exists in Canada; it was not the result of a whim. International unionism exists because we are dominated by American finance.

Mr. Lewis: It is an historic fact.

Mr. Thibaudeau: Yes, it is an historical fact.

[English]

Mr. Munro: That may be an historical fact, but I do not agree just because we are dominated by American finance that the union movement any longer needs the assistance of international trade unionism, but we will not get into that right now. All I know is that CUPE certainly is a Canadian union and you certainly would never entertain, I take it, gentlemen, any thought of linking up in any way with an international union, would you?

[Translation]

Mr. Thibaudeau: There is absolutely no question of this, because our needs are not at all the same. In CUPE, there are no American investments to be taken into consideration, no American influence coming from the employer. We would be completely opposed to belonging to the American central labour organization corresponding to our own. There would be no advantage for us. We would agree only if it were necessary because of advantages or needs. However, I see no such necessity. We are Canadians and the employers we deal with are not at all dominated by American finance.

Mr. Guay: Then it is because of the employers?

Mr. Thibaudeau: Because of the employers. The employers may be municipalities, school boards, hospitals or government commissions, but they are all strictly Canadian and that is why our unions has to be completely Canadian. We have no interest at all in its being anything else.

Mr. Guay: You are affiliated with the CLC.

Mr. Thibaudeau: We are affiliated with them for briefs and such matters, but the CLC has nothing to do with our internal administration.

Mr. Guay: But they give you orders.

Mr. Thibaudeau: They do not give us any orders.

[English]

Mr. Munro: You are satisfied that the CUPE union has enough resources to hire experts in the labour relations field and adequate resources to properly service your members without outside assistance from any international union. Is that right?

[Translation]

Mr. Thibaudeau: That is right.

[English]

Mr. Munro: Getting off into another area, as I understand it the CUPE union, as far as you are concerned at least, is broken up into several locals. You have one local in Montreal. Is that correct?

[Translation]

Mr. Pelland: One in Montréal and the other in Québec.

[English]

Mr. Munro: But as far as your bargaining at negotiation time is concerned, you have a common committee on which all the locals are represented, and whatever conclusion you may come to binds all the locals. Is that right?

[Translation]

Mr. Thibaudeau: You are proposing the following condition: the groups from Quebec and Toronto will have the right of veto in negotiations. The Montreal group and the Toronto group will be able to veto management offers so that the rights of each will be well defended. In this way, during the negotiations, a bargaining structure will protect everyone's interests and will prevent the abuses which occurred in the past. It is understood that the bargaining committee, which is formed from all locals, will have very strong representation from Quebec.

• 1545

Mr. Pelland: Were you speaking of the CBC in particular or do you mean CUPE as a whole?

[English]

Mr. Munro: I mean the locals in CUPE connected with the CBC.

[Translation]

Mr. Pelland: Of course, connected with the CBC.

[English]

Mr. Dean (Assistant Quebec Director, CUPE): Yes.

Mr. Munro: You are mainly representing the production people, right? And the production people with the CBC are now, as of the decision yesterday, representing production people across Canada, as I understand, and within that stratum there are different locals: in Montreal, in Toronto and so on; and that these different locals at negotiation time sit on a bargaining committee, have representatives each on a bargaining committee. What happens in a case where, let us say, a tentative settlement is reached at negotiation time and the other locals, say Toronto and elsewhere but not Montreal, approve of it but your local and your people in Montreal do not like the settlement reached? Do I understand

you to say that you have a veto then on the settlement?

[Translation]

Mr. Thibaudeau: The general council of Quebec will be able to veto the requests and offers that management makes to the members. Naturally, the national bargaining committee will have to revise its proposals and try to find another method of settlement.

We have the same situation in the case of Hydro-Quebec. Three groups are involved: technicians, white collar workers and the trades who form one bargaining committee only. Each of these groups has the right of veto over the others. When they do not agree on a general rule that is going to affect the three groups, then one group can say that it posed of great many people uses its right of selves to find the middle road. We obtained two major agreements affecting 10,000 members in Hydro-Quebec in this way. This right of veto gave justice to all. Committees, councils and boards would sit down together and say that they did not agree on such and such a point and so on. This brings about a great deal of discussion within the groups themselves and a method of settlement is found.

Mr. Lewis: Another question. Is there a vote on the proposal?

Mr. Thibaudeau: The labour council composed of a great many people, uses its right of veto to see whether they will go before the Board. When they go before the Board, each group claims to have met the requirements of the employees. Do not forget that at Quebec Hydro there are three dissimilar groups: technicians, white collar workers and trades.

[English]

Mr. Munro: Let me try to get this clear now. If all the locals except Montreal were quite happy with the tentative settlement reached and your local was not...

[Translation]

Mr. Thibaudeau: They do not go before the Board, because the labour council blocks it there. They oblige them to renegotiate. This is what happened at Hydro-Quebec.

Mr. Pelland: What happens is that the council...

[English]

Mr. Munro: All right, then, if it does not go to the membership of the local; but if you, as

executive officers of this particular local in Montreal, do not approve of the settlement, you can veto it and in effect prevent the settlement from going through until new terms are negotiated that meet with your approval. Irrespective of whether the other locals go along with you or not, you can hold up the settlement until such time as you get what you want. Is that correct?

[Translation]

Mr. Thibaudeau: Yes. This is what happened. The groups look for a compromise and at a certain point, establish one among themselves. The groups bargain among themselves. They seek a compromise without which offers are not presented to the Board.

Mr. Gray: Like Mr. Lewis, might I ask a question to clarify some points?

Are your various locals at the CBC based on different legal bargaining units?

Mr. Thibaudeau: No, only one. It is the same thing at Hydro-Quebec.

Mr. Pelland: It should perhaps be made clear that when the committee comes to the bargaining table, an agreement will already have been reached among the various locals. At such a time, the collective agreement would be based on the demands of all the locals.

The problem we had before was that Montreal did not have fair representation at the bargaining table. In the future bargaining committee, we want Quebec to be represented proportionately to the rest of the country. Thus there will already be agreement on the proposals to be made. The Quebec committee will exercise its veto only in exceptional cases because an agreement was established at the beginning.

Mr. Thibaudeau: I have made this experiment twice in that field, with two very different groups, even more dissimilar than the CBC groups. There it is the same thing, you have scripts in Toronto, scripts in Montreal and so on. When representatives of one group are not satisfied, they can always tell the other groups why they are not satisfied. And then, the employees among themselves arrive at some sort of a compromise which will satisfy them in one way or another.

[English]

Mr. Munro: This is the coercive nature of the arrangement you have; that you can force

the other groups to compromise before a final settlement is reached. Is that it?

• 1550

[Translation]

Mr. Thibaudeau: The other group can do the same thing. Any group can.

[English]

Mr. Munro: You gentlemen tried, as I understand it, to form your own union at one time before you decided to link up with CUPE, right? Then you decided to link up with CUPE provided they agreed to meet certain of your terms, and you referred to that this morning. The CUPE union satisfied you because they agreed to meet your terms. What were those terms that you insisted on in order to affiliate with CUPE?

[Translation]

Mr. Pelland: Surely one of the basic conditions was this representation on a national basis where all the associations were grouped together to form a common force. There is another important item: the efficiency of the union representatives. There might be technicians in the various bargaining groups and various categories. For instance, this was the case in the job evaluation or grievances or arbitration. Formerly an individual acted as a business agent and settled all the problems. It is important for us to know that we have men on the site to defend us, who can solve all sorts of problems, whether in Montreal, in Toronto, in Winnipeg or in Edmonton.

[English]

Mr. Munro: As far as production people are concerned, I understand you are now certified as a national unit for bargaining purposes but within this unit you have your own locals. What proportion of the over-all production people does your union in Montreal represent?

[Translation]

Mr. Pelland: That represents 766 out of 1726. In numbers, Montreal is the largest centre, and the most representative.

[English]

Mr. Munro: That would be roughly 40 per cent of the total membership. What is your representation on the bargaining committee when negotiating in comparison to the others?

[Translation]

Mr. Pelland: Our representation must be equal throughout the country, that is, Quebec

will have the same number of representatives as the country as a whole. The other centres, which are very much in the minority will unite with Toronto, which is the second largest production centre. Thus these centres and Quebec will have equal representation.

[English]

Mr. Munro: All right. How many people do you have on the Committee?

[Translation]

Mr. Thibaudeau: Do not forget that a draft constitution will be presented to the membership. I cannot give you any other answer, that is all!

[English]

Mr. Munro: How many do you anticipate you will have on the Committee?

[Translation]

Mr. Pelland: The more people there are, the harder it is to reach an agreement. For that reason, we plan to have perhaps 9 or 10 persons.

[English]

Mr. Munro: If there were 10 persons you would have five. In other words, your local and all the other locals combined would have five. Is that correct?

[Translation]

Mr. Pelland: There will be 3 from Toronto and one which will represent one or two other districts in order to form a balanced group with five representatives from either side. Formerly there was a serious problem. The French fact was not represented, at the local bargaining table because in Quebec, production, as represented by the number of programs, is higher than elsewhere.

[English]

Mr. Munro: You say there are 700 and some odd members in your local; what percentage of those would be French Canadian?

[Translation]

Mr. Pelland: Except for about 20 members who are English-speaking, everyone in our bargaining unit is French-speaking.

[English]

Mr. Munro: Then your membership is almost totally French Canadian?

Mr. Pelland: Yes.

Mr. Munro: And is it correct then that you would insist on having French Canadians on a bargaining committee at negotiation time?

Mr. Pelland: This will depend on the members who are elected. The elected members will be the ones to decide on their own representation, though it is very likely that all members on the committee will be French-speaking. This does not exclude the possibility of having an English-speaking member, because in the majority of cases, the English-speaking people are bilingual since they also have to work on both networks.

[English]

Mr. Munro: I have listened to your argument, as everyone else has, and the arguments of others who have appeared before this Committee on the merits of national bargaining units, and I do not think we have to go through that again because you have elaborated on it very well in your brief. Suppose it should occur, and hopefully not, that a majority of the employees in your local in Montreal should become very dissatisfied with the way your local is being run and they complain about inadequate and improper servicing and so on, what realistic choice would they have in terms of getting another union to represent them?

• 1555

[Translation]

Mr. Thibaudeau: They would have to throw us out in the same way that IATSE has just been thrown out. Nevertheless, a national union has been thrown out.

[English]

Mr. Munro: They are not going to boot you out if they cannot get a union to replace you. Under the type of rulings we have had and the respect paid to national bargaining units what other union could replace you if there was dissatisfaction?

[Translation]

Mr. Pelland: The results of this first round of negotiations will show what the newly certified union is going to do.

I can quite honestly say that if people are not satisfied at that time, and if the CNTU still thinks it can do it, then the CNTU can come to us. It will depend only on the free choice of the employees.

At the present time, the choice has been made. It was decided that a national union offered the only way of being well represented. Until today, we haven't had the opportunity of being well represented. So, first of all, we have to prove what we can do...

[English]

Mr. Munro: Is not the essence of the CNTU position that no matter whether your employees and your union members are dissatisfied, they could never replace you because they are not in a position to bargain nationally?

[Translation]

Mr. Pelland: We will have to recruit on a national basis then. We will have to look for members from all employees across the country.

Mr. Thibaudeau: There is nothing to prevent the CNTU from recruiting on a national basis. They stated in their representations that they were not a provincial union, but a Canadian union.

[English]

Mr. Munro: But wait a minute. The CNTU have indicated, certainly in your case, that they are interested in Quebec, that they are mainly interested in representing French Canadians. What you are saying is that no legitimate trade union movement dominated by French Canadians, even in a cultural area such as your own, would ever have a realistic chance of replacing you even if your own employees were dissatisfied because they would not be in a position to negotiate on a national basis.

[Translation]

Mr. Thibaudeau: First of all, there was already a national union in existence there, which was affiliated with the CLC and which put IATSE out. There are two national unions affiliated with the CLC who could put us out. This is not necessarily the only solution, and it would not necessarily be the CNTU.

Other groups could be formed again, because workers, when they are dissatisfied, always find a way to organize and group themselves in order to replace what existed before effectively.

Now, to come back to my argument. I am going to turn it around. Montreal is dissatisfied. Let us suppose that your Bill has been

passed. The CNTU make an application and the employees will enter the ranks of the CNTU. CUPE stays throughout the rest of Canada. The CNTU represents Quebec. Its representatives return and negotiations start all over again. How do you think bargaining will be carried out on working hours and the number of holidays? Will the representatives of the CNTU be put in one room and those from CUPE, representing the rest of Canada, in another? Which side will give in? Do you think the CBC is going to make two different offers? Do you think one employer is going to make two different collective agreements? Do you think that they are going to hamper themselves with two policies regarding wages and pensions? What will be the inevitable result?

[English]

Mr. Munro: Perhaps it is true that the CNTU are arguing that their French Canadians want some type of special status, which is an argument some political parties are even adopting, which is not unusual. Perhaps they do, but it certainly does not preclude the possibility of the CNTU union representing the production employees getting together at negotiation time with the CUPE union that represents other production employees across the country. Is that not correct?

[Translation]

Mr. Thibaudeau: A cartel would be formed, then. We'd have to change our research offices. It would form one labour unit. It would be the same formula which was suggested for the CBC. However, the same people would not collect union dues. This would be the only difference.

Mr. Pepin has already said to me that a cartel will be formed because he sees no reason for separating in order to bargain. A real cartel would actually represent labour unity on a nation wide basis. It comes back to the same thing. Then what is the point?

• 1600

[English]

Mr. Munro: I am just wondering, in terms of your dedication to this principle of national bargaining, whether, in fact, in practical terms, you have not set up your own cartel? That is my point. I do not see much difference between that and the CNTU union, representing production employees in Quebec,

getting together with the CUPE union representing other employees throughout the rest of Canada.

You have just said that your own local has come to some agreement with the other locals in terms of what you can do at negotiation time. What would stop you from coming to the same agreement with the CNTU?

[Translation]

Mr. Thibaudeau: Eaton's and Morgan's do not form a cartel; they are competitors. However, this is in the same family, the same group. All the same, it is a question of the same central labour body. They would have a voice at the same convention for the election of the same people on the national level; they would be in the same family. They would have the same interests with regard to internal policy. There would not be two separate central labour organizations fighting each other. Instead they would form a cartel and would fight to obtain members elsewhere, engaging in an interunion war. Do you think the cartel would work?

[English]

Mr. Munro: No, I am not saying your position is bad. I am surely trying to analyse it in my mind.

I think you are happy with the Canada Labour Relations Board as it is and the tenor of their past rulings, because it imposes unity on the trade union movement in terms of international bargaining units. It imposes it upon you all. They are granting certifications in such a way that you are forced to come together, and, in fact, unity is imposed upon you without any act of volition on your part. Is that not right?

[Translation]

Mr. Thibaudeau: I did not understand you.

[English]

Mr. Munro: The past rulings of the Canada Labour Relations Board have indicated that no union that is largely situated in a region, such as the CNTU, can apply for, and obtain, certification if it represents only employees in the one region. The tenor of the decisions of the Canada Labour Relations Board is that they must be in a position to bargain nationally, and this has precluded the CNTU from winning many of these certifications that they very much want to win.

I am saying that the effect of these decisions is to impose unity on the trade union movement. The CUPE union, for instance, would not have to come to any type of agreement with the CNTU, nor would the CNTU have to come to any agreement with the CUPE union at negotiation time, because the Canada Labour Relations Board would not allow a union into the picture. They impose the one union throughout Canada.

I suggest that that is what you gentlemen want, and is why you do not want the rules changed. Is that not correct?

[Translation]

Mr. Thibaudeau: No, not quite. If we want one unit and we do not want fragmentation of the bargaining unit, it is not because the CNTU is in the picture. It is solely because there is only one employer. It is the same thing. It doesn't raise any problems. However, if we make an intellectual effort we can twist the matter and say: "Let them form a cartel." A cartel is formed. At that point, why not unite instead of forming a cartel? The same thing happened in Quebec, at Hydro-Québec—why call for a cartel when people did not want one? They would rather belong to the same family. If there must be an agreement with the CNTU, it will not take place at the bargaining table. It will take place at the level of principles and an amalgamation as was the case for the TLCC and the CLC in 1956. It will not be around the bargaining table on working conditions.

• 1605

[English]

Mr. Munro: That is your interpretation. You say that it would be a cartel, and that you do not like it because it involves various trade unions coming together of their own volition and reaching some type of arrangement and agreement. You do not like the voluntary nature of this because you think it may not happen. That is why you are afraid of fragmentation.

When you talk about fragmentation what you are saying, in effect, is that various *bona fide* trade unions with intelligent personnel are incapable of coming to any type of an agreement at negotiation time. Therefore, you prefer that some governmental agency impose unity on you by precluding any other union from breaking in unless it has a national base.

That is my interpretation of it.

27993—3

[Translation]

Mr. Thibaudeau: Irrespective of any other legislation, the Canadian Union of Public Employees thinks that it can represent the French Canadian employees of the CBC in Quebec just as we can represent the French Canadian employees of the City of Montreal, just as we can represent the French Canadian employees of Hydro-Québec. You seem to say that it is absolutely necessary to put the English on one side and French Canadians on the other side, i.e. in the CNTU. This makes no sense. We are not asking the CLRB to solve our linguistic or our cultural problems. We are asking the CLRB to settle the problems which may exist between an employer and a union. This is what we want. We want this with regard to provincial legislation, with regard to Quebec legislation. It is strictly a question of a basic principle. As was the case for Quebec hospitals, we are sometimes obliged to form cartels. I am thinking of the construction industry in Montreal. Cartels were formed, but they all turned out badly. There was never a bargaining cartel which has been able to last between French Canadians or English Canadians alike. No cartel has ever been able to last.

[English]

Mr. Munro: I will not pursue this aspect any further.

One point you did raise, though, was that if your employees were dissatisfied they could go to another union that could obtain certification, even with adherence to the national bargaining unit principle. My question: To what other unions could they go to take over from you if they were dissatisfied?

[Translation]

Mr. Pelland: These unions already exist.

Mr. Thibaudeau: If amalgamation took place between the CNTU and the CLC, then there would be only one trade union movement in Canada. Does this mean this would be bad in principle? Yet everyone believes that it would be a good thing for the workers to obtain labour unity. In England, there is only one. In France there are five and they are fighting among themselves. I think that the fundamental principle of natural unity is to unite and not to divide. Competition should not exist in this field.

[English]

Mr. Munro: I was asking for the name of another union, whether affiliated with the CLC or not, that, in your opinion, could realistically get certification for your employees if they are dissatisfied.

[Translation]

Mr. Thibaudeau: There are several associations which would be able to NABET, ARTEC, etc.

[English]

The Chairman: Have you finished, Mr. Munro?

Mr. Munro: I have just one more question.

I wish to refer to page 7 of the English copy of the CUPE brief. In the French version the pages are not numbered. In the first three lines of the last paragraph there is a reference to one of the CUPE unions...

Mr. Lewis: Which one? Is it the Council or the local?

Mr. Munro: The Council. The statement is:

However, within Hydro-Quebec, workers from Abitibi maintain—and we are inclined to believe them—that their temperament and way of life are entirely different from those of their counterparts in Montreal or Saguenay.

You appear to suggest this as justification for their perhaps having their own unit. That is your theme. On what facts do you base this observation?

[Translation]

Mr. Thibaudeau: I am basing myself on a thousand and one examples which I could give you. When fairly large groups of workers exist, there are always some who think they are more important than the others. I can give you another example here. Among the trades in Montreal, people from the shops wanted their own unit, claiming that they did not want to be mixed up in the problems of the street cleaners. Yet they came up with a great many petitions. In fact, for years they asked to have street cleaners separated from garage workers and the CFP refused.

[English]

Mr. Munro: Pardon me for interrupting, Mr. Thibaudeau, but I am not talking and I do not think you are talking either about

economic conditions or working conditions of employees. You are talking about the wider aspect of the temperament and way of life of the workers involved. This temperament and way of life of the workers involved in this particular region may justify their being represented by their own union, an individualistic union. I want to know on what facts you base this observation that you yourself have put in your brief.

[Translation]

Mr. Thibaudeau: It is a fact: all groups outside a large centre always think that they are being crushed by those of the big centre. People from the Abitibi, for example, very often tell themselves: "People from Montreal are going to crush us in a vote. We would like to be in control of our own little concerns here".

[English]

Mr. Munro: In the same context, then, is it not quite possible that French Canadians themselves may feel that they are dominated by English-speaking Canadians throughout the rest of the country and therefore want their own individualistic union, French Canadian oriented and dominated, to represent them? Is that not an analogy on all fours with your own observation in your own brief?

• 1610

[Translation]

Mr. Thibaudeau: If you accept such a principle, fragmentation will go on ad infinitum. There will no longer be any end to fragmentation. This can result only in anarchy and social disorder. Must we bend to every whim? I will give you an example to show you what I mean. People from the Abitibi do not think that they are like Montrealers; people from the Gaspé don't think so either. If you give this power to Quebecers and not to others with respect to working conditions, why should the others not obtain the same rights? They will continue the argument indefinitely. In the production unit of the CBC, we could have 25 bargaining units. It would be just as logical.

[English]

Mr. Munro: I again say to you that your comment about fragmentation and anarchy applies only if you rule out any possibility of

a solely French Canadian union representing these employees and you rule out the possibility of that particular union reaching any type of agreement with other unions representing the same employees across the rest of the country. I do not think you should rule it out in that flippant way. I think it is quite possible they could reach some type of agreement.

Mr. Lewis: Which union is Mr. Munro referring to?

Mr. Munro: You could use the CNTU as an example. These gentlemen themselves have said that they have no desire in this particular case to go outside the Province of Quebec.

Mr. Lewis: Who said?

Mr. Munro: I heard it said this morning. I think you yourself said that the CNTU had no desire to represent the production workers outside the Province of Quebec. It is certainly contained in your brief.

[Translation]

Mr. Thibaudeau: I said that they were unable, that they were not able. I did not say that they did not want to. They opened an office in Toronto.

Mr. Munro: And I contend they have no real desire to either. That is my own observation. That is all.

The Chairman: Mr. Gray.

Mr. Munro: If you read all the pages of the brief of Local 660 which these gentlemen represent, and can come to any other conclusion, I would be interested in hearing it. They themselves contend that the CNTU should not be recognized because they have no intention of going outside the Province of Quebec. That is the conclusion I reached from your brief.

[Translation]

Mr. Thibaudeau: No, no! One moment. I believe that the CNTU is sincere when it states that it is a Canadian union. In its constitution, it has never said that it represented only French-Canadians. You are misrepresenting the problem completely by saying that there should be a union for French-Canadians. I am against trade unionism based on racial distinctions. Do you want to discuss

the racial problem now? This has been discussed before.

• 1615

[English]

Mr. Munro: I do not think it is fair to say that we are just talking about trade unionism on a racial basis here. We have heard a lot about the fact of the cultural difference and divergence of French Canadians as opposed to the rest of the country. Every major political party in the country is prepared to recognize it. Are you not prepared to recognize it in the trade union movement?

[Translation]

Mr. Thibaudeau: We are ready to recognize the existence of cultural problems according to their real importance. They are recognized at the level of the CLC and the QFL. They are recognized in their proper place, but not when you are discussing how much you are going to pay a painter and how a stage is to be decorated. Culture does not come into it. We can discuss overtime or working hours. There is no question of culture in bargaining. For 18 years I have been bargaining and we never talked about culture or of cultural matters in negotiation. It is not on a local basis that this has to be discussed, but rather at the level of the central labour bodies. Nevertheless there are presently enough arguments in the CTC and the QFL that it can be clearly seen that these questions are being discussed at the proper levels. The problem has simply been shifted. From the point of view of negotiations, the CNTU represents English hospitals in Quebec. It represents them very well, moreover...

[English]

Mr. Munro: I could very well envisage a situation where French Canadians, with a very distinct culture of their own, would want certain things in labour negotiation time which would not even be of the remotest interest to English-speaking Canadians. And they could be demands which are very legitimate and should be recognized. Apparently you do not think so.

[Translation]

Mr. Thibaudeau: Try to name some of them as regards working conditions. I have been bargaining for 18 years. Try to name some!

[English]

Mr. Munro: I am asking the questions.

[Translation]

Mr. Thibaudeau: We might recommend them.

Mr. Lewis: If there are any. Do not think that the *SCFP*, the *Syndicat Canadien de la Fonction Publique*...I am not speaking of CUPE here. It is not a translation, it is the expression which is used. It does not belong to Quebec. We are as much Quebecers as the CNTU. The QFL represents 350,000 French Canadians as against the 200,000 in Quebec. The QFL is just as French Canadian as...We represent French Canadians of culture. The QFL represents French Canadian culture. Some of its representatives will appear before you the day after tomorrow. You will then realize this fact.

[English]

Mr. Munro: You recognized this very principle when you insisted on the right of veto on any agreement reached by the other locals in the country in your own union. That is all.

[Translation]

Mr. Thibaudeau: Yes, in our groups. French Canadians have this right of veto to protect their interests. French Canadians have it and it is part of our structure in Quebec.

[English]

Mr. Munro: What interests, if your interests are no different from the interests of other English-speaking trade unionists in your same union? Why would your interests be any different than theirs?

The Chairman: Mr. Gray.

[Translation]

Mr. Gray: Perhaps we might profit from the experience of CUPE because this union deals with both provincial and federal spheres in labour relations. One witness gave us very interesting information on the situation at Hydro-Quebec. First of all, is it true that Hydro-Quebec is strictly under provincial jurisdiction?

Mr. Thibaudeau: Yes, entirely.

Mr. Gray: You said, I think, on page 6 of the French text of your brief, at the bottom:

"The employees of Hydro-Quebec, the company management and the union leaders all recognized that this was an unworkable system. And this is why the two union congresses agreed to a union allegiance vote for two units..."

Did the Labour Board in Quebec render the same decision on this?

Mr. Thibaudeau: Yes, there was a decision rendered by CUPE. It led to the amalgamation of 24 units into 2, one for trades and one for white collar workers.

• 1620

Mr. Gray: Consequently, the Quebec Labour Board has jurisdiction in questions concerning work units, has it not?

Mr. Thibaudeau: As much as the CLRB.

Mr. Gray: And what did the Quebec Labour Board do in cases of conflict between unions?

Mr. Thibaudeau: It has never divided a unit in inter-union conflicts.

Mr. Gray: No, I didn't mean the results of its deliberations. But, in the Quebec Labour Code, is there no method for solving inter-union conflicts?

Mr. Thibaudeau: No, the only particular in that Bill is that the judge alone decides in cases of inter-union conflict.

The method, just the method.

Mr. Gray: Not the results.

Mr. Thibaudeau: No, the method.

Mr. Gray: Here, we are trying to arrive at a fair solution for a rather difficult situation.

Mr. Thibaudeau: No, I'm giving it to you.

Mr. Gray: Is it not true that in the Province of Quebec, when there is inter-union conflict, not only on questions of the bargaining unit, the representative members of the Board do not vote and it is the chairman who is non-representative and appointed by the government who reaches the decision?

Mr. Thibaudeau: That is right.

Mr. Gray: And the representative members of employers and employees only discuss the matter with the chairman.

Mr. Thibaudeau: That is correct.

Mr. Gray: Of course you are pleased with the system.

Mr. Thibaudeau: No, I wouldn't say we are pleased with it. It is the law.

Mr. Gray: Did you always act in the same way in the province of Quebec when the Legislative Assembly was considering the new Labour Code?

Mr. Thibaudeau: When Bill 54 was being studied, I was the General Secretary of the QFL. We formed a cartel with the CNTU. There were four leaders: Roger Provost, Jean Marchand, Marcel Pepin and myself. And, at that time the QFL did not accept the system which was requested by the CNTU but in private negotiations we agreed to form a cartel against the employers the next day, solely because they made concessions on other points of law to support us. It was negotiation behind closed doors. He is asking me what happened... I'm telling him.

Mr. Gray: But it is very important.

[English]

Mr. Reid: A supplementary question, Mr. Chairman, for clarification?

[Translation]

Mr. Gray: Just a short question.

[English]

Mr. Reid: I would just like to ask the witness if that was not the type of cartel in bargaining that Mr. Munro was referring to before, where the various unions could come together to bargain for something they had in common. For instance, when the CNTU, the QFL and other independent unions formed a group to protest against Bill 54.

[Translation]

Mr. Thibaudeau: These cartels do not last very long. They exist only when we have a third adversary, the government.

[English]

Mr. Reid: But they can be formed when the need is there.

Mr. Munro: They are only viable...

[Translation]

Mr. Thibaudeau: At the bargaining table, it is almost impossible because it always implies organization among those who are not trade union members. Whoever carries the torch at the bargaining table will be the one best able to organize those who are not union members or to prepare raids. And that is why it becomes impossible to form a cartel during negotiations.

However, in the case of a law which they feel is against labour's interests, the labour

movements can then form a solid block temporarily. That time it was against the Chambers of Commerce and all those people that we came up with a cartel concerning Bill 54. But a temporary one.

[English]

The Chairman: It sounds about as stable as...

Mr. Reid: I am not sure I accept that distinction. It sounds like Arab unity.

[Translation]

Mr. Gray: The parallel situation in the Province of Quebec might perhaps help us to a certain extent. If I understood you correctly, you said that you accepted the method in the Quebec Labour Code in return for certain other changes in the law.

• 1625

Mr. Thibaudeau: Mr. Provost agreed at that time not to object just as the CNTU did not object on some other points.

Mr. Gray: You didn't bring...

Mr. Thibaudeau: There was no battle at that time. However, that was in the context of 1964 and not in 1968. It was within a provincial context. Even the leaders are not the same.

Mr. Gray: No, but the Province of Quebec is a very large province from the geographical point of view. It has many different regions and it would be interesting for us to learn something from the experience that you had of the surrounding and of the labour movement under conditions, which to my mind, are more or less parallel.

Mr. Thibaudeau: Our experience in four concrete cases has shown that it is not a good method to have a judge alone render the decision. One man by himself is often influenced by all sorts of motives. I am thinking of the case of Shawinigan and other cases. He is afraid to make a decision, and this causes delays. I think that the QFL will ask for a return to the method in the Code.

Mr. Gray: He has not started yet?

Mr. Thibaudeau: Leaving the decision to one man alone is a very dangerous method. It is much better to have several people.

Mr. Gray: Several judges?

Mr. Thibaudeau: No, the parties involved.

Mr. Gray: Would you find this method more acceptable if there were a group of chairmen who give the final decision?

Mr. Thibaudeau: Each method can have its faults and its good points. But the method that we now have in the Province of Quebec has shown... In cases where there was only a judge, there have been both good decisions and bad decisions.

[English]

Mr. Munro: This is an indictment of lawyers.

[Translation]

Mr. Gray: But, it would be the same situation no matter what...

Mr. Thibaudeau: It is necessary to compare both methods to see which one would be better. All labour legislation in Quebec will be studied by the Superior Labour Council. However, you may have noticed, we didn't deal with that aspect in much detail in our briefs.

Mr. Gray: No, but I want to profit from your experience and ideas and I greatly appreciate the information that you have given me.

When you say that you are not completely satisfied with the system in Quebec in which only one judge renders the final decision, do you mean that the right of appeal has some good in it?

Mr. Thibaudeau: I consider the right of appeal very dangerous because of the delays it will create, very dangerous. I would rather have several people making the final decision without the right of appeal, for with the right of appeal months and years may pass during which the workers will have no union and no working conditions.

Mr. Gray: What if this right of appeal were limited in the act? What if it were stated that the appeal division would have to give an answer within a certain time limit?

Mr. Thibaudeau: I've never seen yet a near judicial or judicial court respect a time limit determined by the law to render its decision. That is something I have never seen. I have seen cases that lasted 18 months, 2 and 3 years, though.

Mr. Gray: You therefore think that the Quebec system at the present time is more acceptable? In your opinion the present system in Quebec is more acceptable than the system described in Bill C-186.

Mr. Thibaudeau: Without the right of appeal, yes. I would rather have a decision without the right of appeal even with one judge. A decision will always be appealed. Each time we are not satisfied, we will appeal. We might just as well form a court of last instance.

Mr. Gray: You find the Quebec system preferable?

Mr. Thibaudeau: With regard to the right of appeal?

Mr. Gray: Yes.

Mr. Thibaudeau: It would be necessary to create a court of last instance, because at the present time, if the right of appeal existed, you can be certain that the group which loses will always appeal. There will be no end to it.

• 1630

Mr. Gray: Under the present system, the CLRB could make another application after six months, could it not?

Mr. Thibaudeau: After six months, for a first contract.

Mr. Pelland: Let us take the present CUPE as an example. CUPE has just been certified. There has to be a period of 10 months between the signing of the collective agreement and recruiting. If no union has made an application for certification at the time of rejection, they then have to wait six months before going back to the board.

Mr. Gray: This is the CLRB's present system.

Mr. Pelland: Yes.

Mr. Gray: In the new act, the number of applications is not limited.

Mr. Pelland: It is six months in the case of a refusal...

Mr. Dean: In the case of a new application for recognition.

Mr. Pelland: It is not an appeal, it is a case which has been rejected. Cards have to be signed again and another deposit made...

Mr. Gray: I feel that it is the same thing.

Mr. Thibaudeau: No, it is not an appeal at all.

Mr. Gray: I am not challenging the distinction you have made. At the present time, you are not campaigning against the system for disputes which exists in the Quebec Labour Code as you are campaigning against Bill C-186.

Mr. Thibaudeau: Just a minute. We are waiting because we were told that there would be amendments to the legislation and the Labour Code in Quebec. We are waiting for the Minister of Labour to announce these amendments before considering them and taking a stand. We are just waiting to see what kind of amendments will be proposed before we start a campaign. We do not know what amendments the Quebec Department of Labour is going to make in the Quebec Labour Code. You can be sure, however, that we are waiting impatiently for them and we will study them.

Mr. Dean: Finally, we have made representations to the Government with regard to the amendments that we would like made in the Labour Code.

Mr. Gray: We shall await with eagerness what you are going to say on the matter of solving inter-union conflicts.

Mr. Thibaudeau: We will be very interested in having the report of the Task Force to which you have referred. You will also have to wait for that.

Mr. Gray: Does this mean that you are prepared to accept in advance any decision?

Mr. Thibaudeau: Not at all. However, they are impartial men.

Mr. Gray: Perhaps I might direct my questions to another sphere?

On page 2 of your brief you said something with regard to the story of employees in the automotive industry, tobacco and others. Is it not true that although collective agreements in these industries are identical, the legal system on which they are based is different in a rather important field? Not all bargaining units are certified by the CLRB?

Mr. Thibaudeau: No. I agree with you that any example may have a weak point; it is very rare that all examples will be perfect. I

meant that workers, in spite of the laws, are trying to unite rather than separate. This is what I was trying to bring out.

Mr. Gray: Perhaps I might continue. There is no legal unit for the entire automotive industry or for a single employer. There are units for each plant; the units are certified by at least two different provincial labour relations boards. There are at least two channels for conciliation in the case of strikes, etc.

There are uniform collective agreements which exist in spite of this system of fragmentation which, in my opinion, is almost the same thing as what you seem to fear if Bill C-186 is passed.

Mr. Lewis: There is still only one union.

Mr. Dean: Allow me to answer your question. There is only one union which has organized plant by plant, it is true. However, in spite of different legislation, in spite of all these delays, the principle of two unions representing the workers of one employer is respected in spite of all the impediments and spokes thrust in the wheel by the laws of two provinces. The present strike is proof that all the fellows went out on strike at the same time because they had one sole union in spite of the fact the laws of two provinces were involved. This was discussed at the same bargaining table.

Mr. Gray: I do not feel that the present system prevents collective bargaining by the employees in the field of the automotive industry.

Mr. Dean: Nevertheless, at the present time, in Toronto, when you say that GM of Canada is bargaining to settle the strike, there are French Canadians from Ste. Thérèse who are sitting at the bargaining table in Toronto.

• 1635

Mr. Gray: I agree with you. That is not my point of view. I am not denying that there are certain categories where French Canadians belong to national unions. I am trying to say that by mentioning what happens in non-federal industries, you are giving the CNTU weapons which it may use against you. In the automotive industry, for instance, there is only one certified bargaining unit recognized by one labour relations board; there are many which have been recognized by at

least two boards. In spite of all this, there is fortunately only one union and one uniform collective agreement.

Mr. Thibaudeau: At Ste. Thérèse because of the collective agreements signed by the auto-workers which had been efficient in the past, the sentimental and nationalistic separatist campaign was a failure.

However, IATSE was a corrupt union, and because of its past, the nationalistic separatist movement has found about 50 fanatic supporters who want Quebec's independence. The felt this was a weapon and they charged. In the past they relied on an ineffective union. The sentimental campaign waged at Ste. Thérèse by the CNTU failed in spite of the fact that it was allowed by legislation because the automotive industry had a past which could meet any test.

Mr. Gray: I shall try to conclude on this note. The fortunate result that you have pointed out did not occur because of the strength of the legislation but rather because of the willing agreement of employees and employers in different plants those who were both French-speaking and English-speaking. But I wonder why, even if the result is going to lead to a fragmentation of the present federal bargaining units, it would not be possible to have exactly the same result that we find at the present time in the automotive industry.

Mr. Thibaudeau: In the field of labour, the governments are autonomous and have their own legislation. Labour comes under the jurisdiction of each province to a great extent, does it not?

Mr. Gray: Yes.

Mr. Thibaudeau: Now, I cannot understand how a national government, the federal government, could adopt legislation allowing fragmentation and consequently allowing a special system, when Pierre Elliot Trudeau has just said "no" to Johnson. You will give the CNTU through this bill what you have refused Johnson in other fields, because of Canadian unity. I find it fantastic.

You yourselves will create a precedent by allowing the separation of units. We already have difficulty because of the divergence in legislation in various provinces but we have nevertheless succeeded in overcoming these obstacles. Now you are going to allow the

formation of two unions for employees of the same employer when we have been trying to combat this in spite of different legislation.

Mr. Gray: The railways have more. You do not have just one union on the CNR or the CPR. We already heard witnesses that in the railways you have a whole lot of different groups.

Mr. Thibaudeau: On the national basis of trades...

Mr. Gray: You are going to break up the trades.

Mr. Thibaudeau: Yes, but now you are going to separate them on a provincial basis, that is what you will do. You are going to give a particular status, that is what you are going to do.

Mr. Gray: That is not my opinion.

Mr. Thibaudeau: But that is exactly what you are going to do.

Mr. Dean: There are two at the CBC.

Mr. Thibaudeau: You are going to give in to the sentimental and nationalistic request; that is what we are fighting. As French Canadians let us get together and ask for a special status ... you are going to give Marcel Pepin what you have refused to give to Daniel Johnson in other spheres. I cannot get over it. That is exactly what you are going to do.

Mr. Gray: To accept your arguments, we must first of all accept that the present legislation prevents...

Mr. Thibaudeau: Are you going to settle French Canadians' problems with a little bill on bargaining units?

Mr. Gray: That is not my intention.

Mr. Thibaudeau: Your formula gives the impression of being a little elastic.

Mr. Gray: But you have changed your position since this morning. Then you admitted that the present legislation does not prevent the kind of result which I personally am not expecting and which I do not like. The present legislation does not prevent the fragmentation of units on or plant bargaining units in federal industries.

• 1640

Mr. Thibaudeau: If the group is suitable for negotiating. But you seem to be saying that a

group suitable for negotiating can be provincial. This is not true.

Mr. Gray: But the CLRB has already said that itself.

Mr. Thibaudeau: Yes, when there was no national precedent. Take, for instance, the char staff in Montreal. The Montreal group has certification for itself alone, because there are no other workers in this category in the rest of the country. Private enterprise takes care of it. However, the CNTU, in the case of the CBC...

Mr. Gray: I am not speaking of the results, I am speaking of the rights of the present Board.

Mr. Thibaudeau: Yes, but the legislators have to look to see whether the law on which they are going to vote will bring about serious consequences at the social level.

Mr. Gray: I agree with you on that point, but I also add that you have not shown us anything in Bill C-186, which would automatically lead to this disastrous result.

Mr. Thibaudeau: Oh, just a minute...

Mr. Gray: You have only told us what you fear.

Mr. Thibaudeau: Just a minute. First of all, why are you changing subsection 1 of section 9? Why are you amending it if not for that reason?

Mr. Gray: It is simply a question of clarification.

Mr. Thibaudeau: If that is true, you should say right off that it is just to clarify it, that you are not changing anything. Then you will see us withdraw our objections.

Mr. Gray: It is an argument. We could argue on this point for hours. However, you could also argue that Bill C-186 allows the CLRB complete freedom in determining any type of bargaining units.

Mr. Pelland: Well, why present the Bill, then?

Mr. Thibaudeau: They presented it. That is what I do not understand. Why are you doing it?

Mr. Émard: Mr. Gray, I hope you do not intend to discuss this for hours.

Mr. Gray: No, that is all. I thank the other members of the Committee for allowing me to ask so many questions.

Mr. Émard: Two members, Mr. Lewis and Mr. Boulanger, have asked to speak. Mr. Lewis.

Mr. Lewis: It might be easier if I ask you my questions in English and then you can answer in French, if you like.

Mr. Émard: Fine, Mr. Lewis.

[English]

Mr. Lewis: I want to discuss with you a number of things but, in particular, to get a few more facts.

Perhaps Mr. Pelland will reply to this question. You told us that your Montreal local has 766 members and that there is also a local in Quebec City.

• 1645

[Translation]

Mr. Pelland: The Quebec local is included among these employees.

[English]

Mr. Lewis: So that the number of 766 covers the entire province of Quebec?

[Translation]

Mr. Pelland: The two centres, Quebec and Montreal.

[English]

Mr. Lewis: I did some arithmetic since Mr. Munro asked you the question. Is the total number 1706?

Mr. Pelland: 1726.

Mr. Lewis: I find that that is about 44½ per cent of the total. Now in your unit we have a balance of 960. How are they divided across Canada?

[Translation]

Mr. Pelland: In Toronto, they have six hundred and fifty; I could not tell you how many there are in the other places.

[English]

Mr. Lewis: Then there are not very many in the others, Winnipeg, Vancouver and so on.

[Translation]

Mr. Pelland: Between thirty and one hundred.

[English]

Mr. Lewis: So in your negotiating committee you have really put Toronto and Quebec on the same basis.

[Translation]

Mr. Pelland: Not exactly, because Toronto has been joined by other production centres.

Mr. Lewis: Yes.

Mr. Pelland: In Montreal, we want Quebec, Toronto and the rest of the country to be equal.

[English]

Mr. Lewis: When you were talking about a veto power Mr. Munro asked you questions which suggested that only Quebec would have the veto power. My understanding is that Toronto and all the rest would also have the veto power.

[Translation]

Mr. Pelland: If Montreal is given this right then the right of veto is automatically granted to Toronto and the rest of the country. It works both ways.

[English]

Mr. Lewis: I was also very curious about certification of your membership yesterday. I do not want to argue but to bring out some things, Mr. Chairman, so they are on the record.

In the present law, if you have it there,...

[English]

Let me put it to you this way: that in the present section 9 the Act provides two ways in which a union may be certified. One is that the Canada Labour Relations Board is satisfied that you have a majority of members and the other is that a vote is held and you get a majority of the votes. You proved on your application that you had a majority of the members. Then there is a rule in the Rules of the Board—I think it is rule 15—which defines what a member in good standing is. First, the employee has to be a member in order to sign an application for membership and, second, he has to pay a fee of at least \$2.00 in the three months preceding the month during which he makes his application. Can you prove that about your membership? Did they pay just \$2.00 or more? Sometimes you collect more.

[Translation]

Mr. Pelland: If I understand the Act correctly, it says that the minimum is two dollars...

Mr. Lewis: Yes.

Mr. Pelland: Now the constitution of CUPE requires one dollar in dues and one dollar for the admission fee which met the requirement of the Act for a minimum of two dollars in dues.

[English]

Mr. Lewis: So you collected \$2.00.

I think you either said it here or I read it in the press, I do not remember which, that you had a majority of 55 per cent in your total unit.

[Translation]

Mr. Pelland: That is correct.

• 1650

[English]

Mr. Lewis: And you had a 63 per cent majority in Quebec.

[Translation]

Mr. Pelland: 55.5 per cent throughout the country.

[English]

Mr. Lewis: Does that mean that you had less than 50 per cent in the rest of the country?

[Translation]

Mr. Pelland: It was around fifty. I could not tell you the exact percentage, but I know that Quebec had several cards more than the rest of the country. Quebec gave the 55.5 per cent. I think that in Quebec the percentage was very close to 50 per cent.

[English]

Mr. Lewis: Mr. Thibaudeau, Mr. Munro made the statement to you, and you discussed it for some time, that the past decisions of the Canada Labour Relations Board imposed unity on the unions. I suppose you were too young to have been active before there was a labour relations law in Quebec or in Canada?

Mr. Thibaudeau: Yes.

Mr. Lewis: Is it not in the nature of every labour relations law, including Quebec and the federal law, that the Labour Relations

Board is given the power to establish an appropriate bargaining unit, whether it is under federal or provincial law, and that the appropriate bargaining unit forces all the members in that unit to accept the decision of the majority whether it is by membership or by vote? Is that not the case?

Mr. Thibaudeau: I agree.

Mr. Lewis: It is the case for Hydro-Quebec, for example. You now have two bargaining units in Hydro-Quebec. Is that correct? Is it one bargaining unit or two?

Mr. Thibaudeau: There are two.

Mr. Lewis: There are two, one for the white-collar workers and one for the rest. Suppose any other union wanted to break off a part of your white-collar unit such as the people working in Quebec City, would your Quebec board permit that?

Mr. Thibaudeau: No, no.

Mr. Lewis: Does your central in Quebec support the present law that there should be just the one bargaining unit?

[Translation]

Mr. Thibaudeau: There are two bargaining units: one for white-collar workers and one for the crafts.

[English]

Mr. Lewis: And the CSN as well?

[Translation]

Mr. Thibaudeau: Both central labour congresses support this.

[English]

Mr. Lewis: Let us go back to the CBC in line with the discussion which you have had with other members of the Committee. Your union, or a local of your union, now represents all the production workers of the CBC across Canada. If that were split off regionally, would that exclude any English-speaking workers in Quebec who happen to be working for the CBC in production, or would they remain in that regional unit? What I am trying to say is that...

[Translation]

Mr. Thibaudeau: If the CNTU were to win its point, would English speaking Canadians be excluded? Is that what you asked?

Mr. Lewis: Yes.

Mr. Thibaudeau: No. They would be included in the unit. The minority would have to accept the decision of the majority.

Mr. Lewis: Would this apply in Quebec?

Mr. Thibaudeau: Yes, unless the word "region" means "street corner" in the legislation.

[English]

Mr. Lewis: I will come back to the Bill itself in a moment, but you have had general discussions, some of which I found to be a little strange, and I would like to get at that. The point I am trying to make, Mr. Thibaudeau, is that even though you were not here before these various labour relations laws were passed in North America, you know enough about labour history to appreciate that before these laws were passed people could organize themselves in any unit they wanted and force the employer to recognize them, if they could, by strike. Is that right?

The purpose of these labour relations laws, whether federal or provincial, is to avoid strikes for recognition, but to get recognition automatically if you have a majority of the employees in a bargaining unit. Is that not the purpose of the law?

• 1655

[Translation]

Mr. Thibaudeau: Yes, to avoid social disorder.

[English]

Mr. Lewis: I would like to go one step further in order to kill this idea that this is all one way, that these laws only help the unions. In order to have this orderly regime in labour-management relationship the law has taken away from the workers the right to strike during certain periods. For example, if you are certified for the CBC by the Canada Labour Relations Board, you are not permitted by law to strike until such time as you have gone through negotiations and all the other things. That is the *quid pro quo* that you have given for the labour-management orderliness under the law. Is that not right? You constantly hear from other members of this Committee about the fact that this all going one way. It gives you unity. It gives you benefits.

Some hon. Members: Oh, oh.

Mr. Munro: Just a minute. I think we all recognize that it does not all go one way. We

are talking about what it does to the relationship that exists between two unions that apply. This is not being fair, Mr. Lewis.

Mr. Lewis: I am not being unfair, Mr. Munro. Do not be so thin-skinned.

Mr. Munro: I am not thin-skinned.

Mr. Lewis: I am anxious that the record contain all the aspects of this problem rather than only some of them.

Mr. Munro: And I am anxious that the record is not misinterpreted as a result of what you are saying.

Mr. Lewis: It is not being misinterpreted; I have said it without misinterpreting it at all.

[Translation]

Mr. Clermont: I would like to raise a point of order so that the record will be straight. For the past few minutes, Mr. Thibaudeau has shaken his head instead of saying "no". I think that it might be preferable for him to answer either "yes" or "no".

Mr. Thibaudeau: I merely wished to point out that so far, Mr. Lewis has just been giving a report as he would in a class, on what has happened. That is all.

Mr. Clermont: Mr. Thibaudeau, several times Mr. Lewis asked you: "Is this correct", and Mr. Lewis himself has answered. I think you are to be the one to answer.

Mr. Thibaudeau: No, listen. I can...

[English]

Mr. Lewis: All the honourable gentleman is saying is that a nod of your head cannot be recorded.

[English]

Mr. Thibaudeau, would you or any other member of your group turn to the bill for a moment? I suppose the statement has been made a hundred times before this Committee that section 4(a) does not add any powers to the board. You have already dealt with that point and you asked a question I have often asked, "If so, why is it there?" I would much rather debate this with the other members of the Committee, but these questions have been asked and I want the record to be complete. Would you look at the appeal section and at subsection 2 of 61(a)...

[Translation]

...page 4 of the French version of the Bill, we find the following:

"Notwithstanding subsection (2) of section 61, a decision of the Board on an application made as described in subsection (4a) of section 9 may be appealed by any of the parties concerned..."

The appeal board seems to be limited, does it not, to an appeal from an application under the new section under clause 1 of this Bill. As others have asked you for a legal opinion, I would like to ask what you think it would mean to the appeal board if the only area it were to deal with would be the new section defining the criteria for a bargaining unit which is already in the Act? Would it be concerned with the past practices of the board or would it be concerned with the new criteria set out in 4(a)?

Mr. Thibaudeau: I think then, that with respect to the appeal which can be made under Section 4A, the court of appeal could reject any decision made by the CLRB on established procedure, etc. This is something completely new. The division of a bargaining unit is being introduced in a straightforward fashion. It is being expanded.

[English]

Mr. Lewis: I am merely suggesting to you, and through you to my colleagues on the Committee, that you cannot read 4(a) alone. You have to read 4(a) together with that part which deals with the appeal board, which is limited to appeals based only on application under 4(a) and therefore it gets a completely new regime, does it not, under this amendment?

[Translation]

Mr. Thibaudeau: Absolutely. It is a new system. A brand new system.

[English]

Mr. Gray: Directing his comments in part to his colleagues, I think his colleagues can respond and say there is nothing in clause 5 creating the appeal division that prevents the Board from taking into account any of the already existing criteria for determining appropriateness of bargaining units. It would be quite open to the Board, in my opinion, to say: "Well, even though the Labour Relations Board section says that the unit should be

regional or local, in our opinion as an appeal board this is not the right thing based on all sorts of considerations which we hereby set forth and we reject the appeal." This is not taken away.

Mr. Lewis: They and I will have an opportunity to argue it.

Mr. Gray: I am just trying to make sure the record is correct.

Mr. Munro: I wish we did not have a record.

Mr. Lewis: I would be very happy Mr. Chairman if we argued this seriously on the basis of the Bill instead of trying to make nothing of the Bill which is what hon. members of the Committee are trying to do with (4a).

Mr. Chairman, in reply to Mr. Gray, when you set up an appeal tribunal whose powers are limited only to applications that flow from the new criteria set out in this amendment, how can you argue that that appeal tribunal is concerned with any other criteria when you say to it that it can deal only with such applications?

Mr. Gray: There is nothing in the section limiting the grounds on which it can make its decision. Let us make a distinction here.

Mr. Lewis: I do not suppose I will ever persuade Mr. Gray, but let me put it to you this way in all seriousness and not in any partisan way because I think we will get on better if we do not try to delude each other: an application before the board goes through a certain regime; you have an application which sets out the particular bargaining unit you request; the bargaining unit you request will say on the application that it is requested under (4a); it will say on the application that it is requested as a regional or local or whatever unit it is; there is a reply from the respondent, the employer, and there is a reply from an intervener if there is an intervener and the entire proceeding is around that question—not any other question. It goes to the appeal board only on that question, not any other question.

Why should you argue that (4a) does not mean anything, for Heaven's sake. Obviously it means something and the appeal board is intended to make it mean something when it gets to it, even if the Board itself should reject it.

Mr. Gray: I think in fairness I should be allowed to say I have not argued that section (4a) does not mean anything; I have argued that it means something very different and less harmful than Mr. Lewis has suggested. If section (4a) has a definite meaning, as Mr. Lewis has been attempting to suggest to us, then there would be no reason to have an appeal board. The very existence of the appeal board destroys Mr. Lewis' argument completely.

Mr. Lewis: Not at all. If Mr. Gray is arguing with me I will be very frank and tell him that if I were the Minister or the government that wanted to accomplish a certain thing as this government does without changing the composition of the Board, what would I do? I would leave the composition of the Board as it is, I would then set up an appeal board above it and, in case the present Board does the same thing it has done in the past, I would make damn sure that the appeal board will upset it. That is why you have (4a) and the appeal board, so that you do not care what the Board will do...

Mr. Gray: How can you be certain that the appeal board will always act in the same way?

Mr. Lewis: I am certain of that because I cannot imagine an appeal board which is given jurisdiction only in one area not exercising its jurisdiction in that area and going into another area which it has no right to do. Its jurisdiction is limited to the one area, the (4a), and it will stay within that jurisdiction, and the purpose of it is to accomplish indirectly through an appeal board what they could not accomplish by changing the composition of the Board, because for some reason or other they decided not to change that composition.

• 1705

Mr. Barnett: Mr. Chairman, I wonder if I may ask a question of the two lawyers who are discussing this purely for information, and I would be quite glad to have a reply from both of them? In a situation of this kind where, as Mr. Lewis has just said according to his understanding, the appeal board could act only within the restriction or the field of the proposed (4a), could there possibly be an appeal on a question of law to a court arising from the question of whether or not the

appeal board had contained itself four-square within (4a)?

Mr. Lewis: I have already been accused of giving a lecture. The reply, which I am sure he and everyone else knows, is that there is no appeal from the Board and what lawyers call the privative clause which prohibits an appeal from the Board still remains in the Act.

There is only a possibility of going to court on the issue of jurisdiction of the Board or the appeal board and if the appeal board goes outside the jurisdiction and considers elements which are not in (4a), in my humble opinion if I were the lawyer I would take it to court pretty fast, because it had no jurisdiction to do that. It had jurisdiction only to deal with an application based on (4a) and on nothing else.

Mr. Munro: Mr. Chairman, on a point of order and with respect, I think a lot what is going on now obviously we are going to get into after we have heard all the briefs and evidence.

Mr. Lewis: Yes, you are quite right.

The Chairman: I am very reluctant to end this dialogue, because probably it is the most germane we have had all day to the bill itself and I have found it refreshingly interesting.

Mr. Gray: I think you have been unfair not only to the other members of the Committee, but to both Mr. Lewis and myself with respect to our previous questions, and I think we might unite against you, Mr. Chairman, for the way you have phrased your remarks.

Mr. Lewis: The reason I pursued it is that I found members kept on asking these representatives of unions what in law section (4a) means. I was not going to ask it, if it had not been asked...

Mr. Gray: You were going to tell us.

Mr. Lewis: ...because I think these union representatives are here to give us the facts of the situation as they see it and their experiences.

The Chairman: I would like to point out an additional factor. We have Mr. Boulanger and then if possible we would like to question these other people, so let us move along and get off this section.

Mr. Lewis: I have only one more short question, Mr. Chairman, and this one is of

fact. There have been five cases involving the CBC before the Labour Relations Board. In how many of them has your local or your union been involved?

[Translation]

Mr. Pelland: Do you mean CUPE?

Mr. Lewis: Yes.

Mr. Pelland: This happened in two cases.

Mr. Lewis: In two cases?

Mr. Pelland: In two cases for production units.

[English]

Mr. Lewis: Somebody said that your organization originally was not attached to CUPE. Is that right?

[Translation]

Mr. Pelland: The first campaign was not connected with CUPE. The group of CBC employees had founded a union and wanted to be affiliated with the CLC.

[English]

Mr. Lewis: And in that situation did you organize across Canada or only in Quebec?

[Translation]

Mr. Pelland: Throughout the country.

[English]

Mr. Lewis: So that even when you were not part of CUPE you tried to organize all the production workers?

[Translation]

Mr. Pelland: We wanted to do what ARTEC did, to found a Canadian union affiliated with the CLC—that was our first objective. Recruiting of members went on throughout the country.

In the two locations where a majority of employees gave their support, IATSE did not boycott, though Winnipeg and Edmonton were boycotted. IATSE did not carry on boycotting in either Toronto or Montreal. These were the only places where there was no boycotting.

[English]

Mr. Lewis: And did you apply to the Board when you were in that situation as an independent local?

Mr. Pelland: Yes.

Mr. Lewis: So that really you and your predecessor have been before the Board three times?

[Translation]

Mr. Pelland: Yes.

[English]

Mr. Lewis: Your first application was rejected; why?

[Translation]

Mr. Pelland: Three times.

Mr. Lewis: Three times?

• 1710

Mr. Pelland: Once when the Canadian television union was involved.

Mr. Lewis: Then it happened three times out of five.

Mr. Pelland: Yes, that is correct, three times out of five.

[English]

Mr. Lewis: Right, and your second application, which would be your first one as a local of CUPE, was also rejected?

[Translation]

Mr. Pelland: Yes, because of a defective form. We did meet the Act's requirements for a majority but those who signed the application as joint presidents did not have the authority necessary for becoming president because the local had not been formed yet. The representative from Montreal and the representative from Toronto had drawn up a national constitution in which it was indicated that there were locals in Montreal and Toronto, and these two men would be the presidents. The locals had not been formed, and those two men were not constitutionally recognized as being the official spokesmen.

[English]

Mr. Lewis: And what was that reason?

[Translation]

Mr. Pelland: It was not rejected because of defective form or a lack of a majority. It was refused because at the time of the vote, the 23rd and 24th of November 1966, we did not have the absolute majority of 50 percent plus one which the Act requires. We had a majority but not the absolute majority.

[English]

Mr. Lewis: I see, you had a majority of

those who voted but not a majority of the eligible voters in the unit.

[Translation]

Mr. Pelland: Exactly. And this was caused by the boycott that went on only in Montreal.

Mr. Thibaudeau: We applied to the CLRB with a majority of four and the CLRB decided on a vote between IATSE and CUPE according to the practice established in order that those who had become a minority group could see if that was the actual situation. The CNTU took advantage of this to boycott since it was not in on the vote and could express its opinions freely. It got the services of René Levesque and others.

[English]

Mr. Lewis: And then your last one succeeded because you had a majority of cards and there was no bargaining agent at the time?

[Translation]

Mr. Pelland: No, we were a free group.

Mr. Boulanger: Mr. Chairman, due to the fact that I was a bit late—partly due to my own fault—I may hold you up for a few minutes. I will be brief.

So much happened in the House this afternoon. You know, it was quite moving to see Mr. Churchill become an independent Conservative; Mr. McIntosh who is not going to vote as a Conservative any more. Yesterday, we saw Mr. Herridge, a Socialist, vote against his party. All this is very moving. That is why I was delayed a bit.

At any rate, I want to ask a question like the one Mr. Marcel Pepin was asked by Mr. Herb Gray not long ago. I know your past very well, Mr. André Thibaudeau. Perhaps you were not aware of it, but I know you very well. What I want to ask you first is the date your local was founded.

Mr. Pelland: You are asking me what date the local in Montreal was founded?

Mr. Boulanger: Yes.

Mr. Pelland: The CBC's? It was founded around September 20 or 22 before the application was made to the CLRB.

Mr. Boulanger: Which year was that?

Mr. Pelland: 1967. We filed our application at the beginning of November, 1967. Did you mean the first application or the last one which has just been presented?

Mr. Boulanger: The first one.

• 1715

Mr. Pelland: My goodness, you are going back now to 1966.

Mr. Boulanger: It is a question of 1966. After that...

Mr. Pelland: It was founded in the spring, in May then we filed on June 27, 1966.

Mr. Boulanger: I know that it is difficult to have the last word, you are experts in this, you know that better than we do. Here is a statement that was made in the CNTU's brief. I would like to have your opinion on it. In one paragraph we find the following: Moreover, it is understood that we are in no way opposed to the fact that of their own free will, workers may choose one national bargaining unit rather than another. Then they go further by saying:

"We are simply opposed to the fact that they may not reject the former in cases where their rejection would be founded upon the unit's viability according to the usual criteria which are recognized by labour relations boards and which are applied by all industries in all provinces with no complaints made.

I would like to have your comments on that paragraph.

Mr. Thibauudeau: Their meaning is very ambiguous because they seem to contradict their entire policy from the beginning. In the final analysis if we look at what the law allows labour relations boards in Quebec and Ontario or the Canada Labour Relations Board we see that these boards are given the power to decide what is viable.

[English]

Mr. Munro: That is a novel approach.

[Translation]

Mr. Thibauudeau: They are the ones who have the power to determine which unit is entitled to bargain. It was for this very reason that the CLRB on two occasions told the CNTU that it was not entitled to negotiate and that it was being rejected because it represented a minority among all the job classifications. And it is precisely on this point that they were rejected. We had the decision from the Guild, not only with regard

to production workers, but the Guild too. And they were rejected specifically on that point.

This seems to be ambiguous in the brief. Who is to decide that just the Quebec group is an appropriate bargaining unit? In Quebec it was decided that all the departments would form a whole with regard to negotiations. It had to be all of them to be viable: the Department of Labour, the Department of Health, etc. Why be in two different central labour bodies? Because in Quebec they decided that it was not representative. All the same, there has to be a body which makes this decision. The CLRB stated that this was not viable. It did not represent the majority.

Mr. Pelland: You not only have to have proof of a majority, but you also have to prove to the CLRB that you are the appropriate unit for the group. This where the CNTU failed in two cases.

Mr. Thibauudeau: In the production...

Mr. Pelland: And in the case of the newspapermen in Montreal, the American Newspaper Guild.

Mr. Thibauudeau: It succeeded in proving the viability factor in the case of the maintenance workers in Montreal. They were able to prove it because they represented the existing group as a whole.

Mr. Boulanger: Mr. Chairman, in view of the fact that we still have several other with the question that was asked by my colleague, Mr. Gray. Do you think it is logical, do you think it profitable, for a union like your own to support a political party publicly and officially? I'm asking you the question, because it was asked just as squarely as that, Mr. Chairman.

Mr. Thibauudeau: First of all, to my mind, it has nothing to do with Bill C-186, nothing at all. Because then I have the impression that you are asking me this in order to penalize us.

• 1720

Some hon. Members: Not at all.

Mr. Thibauudeau: It is the impression that I have.

Mr. Boulanger: Well, you have done quite a lot of penalizing yourself.

Mr. Thibaudeau: Well, the CNTU has always been able to play with all the political parties. That is not the point I want to make. All I can say is that the resolutions adopted by the CLC all the same allow complete freedom to any local to support or not to support the NDP. It is a moral resolution.

For a thousand and one reasons no CUPE union in Quebec resolved to give its support. However, if one made the decision, they would be free to do so tomorrow. There are no ties, it is on a voluntary basis. There is no obligation in the resolution adopted at the CLC convention.

Mr. Boulanger: No obligation?

Mr. Lampron: Not at all.

Mr. Thibaudeau: There is no obligation.

Mr. Boulanger: When the chairman, Mr. Louis Laberge—we were both members of the Montreal City Council for years, I know him well enough to talk about him—campaigns, and asks you to give the union's political nature, and insists that you become an NDP socialist and even goes as far as to collect funds? Then Mr. Pepin, when we asked him the question, said:

"No, we are attached to no political party." Can you answer me as clearly as that?

Mr. Thibaudeau: On the federal level, the QFL as such adopted a moral resolution to give moral support to the program of the NDP. On the provincial level, we are neutral. That was the decision of the Congress. However, the locals affiliated with the QFL are not obliged to endorse this. They are not bound by the decisions of the Congress. This resolution allows Louis Laberge to speak in favour of the NDP if he wants to, but, it does not oblige him to make a local vote for the NDP or tell them that they must affiliate themselves with this party. The local remains completely free to determine exactly what it wants to do in matters of politics.

[Translation]

Mr. Boulanger: I would like to finish on a somewhat gay and humorous note.

The Chairman: That would be very good.

[English]

Mr. Lewis: I hope you appreciate my self-control.

The Chairman: Yes.

Mr. Boulanger: Your self-control was pretty good the last time Mr. Pepin was questioned.

The Chairman: I would like to say that I know this was just an innocent question by Mr. Boulanger in passing.

Mr. Lewis: Yes.

Mr. Boulanger: But it was asked.

The Chairman: If it is likely to lead to...

Mr. Boulanger: Yes, I know, that is all right.

The Chairman: Do not go yet, your work is not finished.

Mr. Boulanger: I know, I will stay here.

The Chairman: Gentlemen, on behalf of the Committee we thank you very much for being here. I am sure you have enjoyed the day.

[Translation]

Mr. Thibaudeau: I would like to thank the Committee. This has been very constructive and I appreciate your patience.

[English]

The Chairman: Mr. Ward wishes make a very brief statement before we proceed with our questions.

Mr. John C. Ward (Acting Executive Vice-President, Association of Radio and Television Employees of Canada (ARTEC) (CLC)): Mr. Chairman, to resume where we left off yesterday, there were questions very near the end of the discussion which left an impression which I do not think should be left on the record without some clarification.

It was suggested that Mr. Gagnier, who is not with us today, was being inconsistent when he spoke of the strength and solidity of his union with the CBC and, at the same time, expressed fears about the disruption and unrest that would be caused to his and to other bargaining units at the CBC were the bill to pass and fragmentation take place.

• 1725

The implication left by his questioner was that all it would take would be one attack by the CNTU and his union, despite its vaunted solidarity, would fall apart.

I think it is necessary to recall the climate which exists in certain parts of Quebec in certain fields, including the labour field, and

particularly in the CNTU's campaigns at the CBC.

The CNTU, and particularly their representatives in the Syndicat général du cinéma et de la télévision, are what I might refer to as merchants of discontent. Their propaganda is a particularly virulent combination of anglophobia and monumental disregard for truth. They feed on any discontent within labour ranks.

In the current political climate of nationalism, independentism, and even separatism, which you find in certain areas in Quebec, the SCGT has shown itself to be the agent of these forces in the labour movement.

It is our feeling that their aim is concurrent and co-terminus with those who would hand over the CBC's Quebec operations to the Quebec government. We feel that their aims are totally political and not economic. As we say in the brief, they pay lip service to the economic arguments, but they justify fragmentation on political and ethnic grounds.

There is in the CBC, as in other areas in Quebec—perhaps also in the CBC, for reasons which I need not go into—a minority which is susceptible to the highly emotional...

Mr. Munro: Mr. Chairman, on a point of order. If this statement is to clarify anything said yesterday to indicate that the CNTU was effective I think they have now more than evened the score. If this dissertation is to be nothing but a lengthy bill of indictment against, and a levelling of abuse at, the CNTU I think that has been accomplished, too. Perhaps we can now proceed with the bill before us.

The Chairman: I am inclined to sympathize with that, but you have only got...

Mr. Ward: I am coming to the point, Mr. Chairman. It is that we in the unions represented here are prepared to defend our bargaining units against the incursions of other unions.

The present rules as they are laid down in the law are fair both to us and to the opposition.

What we do object to is the endeavour being made in this bill so to change the rules of the game as to introduce irrelevant considerations which would, in fact, hand over the Quebec employees of the CBC to the CNTU on a silver platter.

That is the clarification I wanted to apply to the suggestion made last night by one of the questioners.

The Chairman: If the bill does not create much in the way of grounds for debate the clarifying statement certainly will. My only regret is that I am in the chair.

Gentlemen, there must be someone who wishes to comment.

Mr. Munro?

Mr. Munro: Mr. Chairman, I...

Mr. Barnett: Are you inviting dissension in the Committee, Mr. Chairman?

Mr. Reid: No; the invitation was not by the Chairman.

The Chairman: Have you a point you wish to raise, Mr. Gray?

Mr. Gray: Frankly, there is something about Mr. Ward's statement that I, as a federal legislator, find rather troubling. As Mr. Munro has said, he has made quite a serious indictment of this particular union, the Syndicat général du cinéma et de la télévision. Is that the correct name?

An hon. Member: Yes.

Mr. Gray: Are you, in effect, saying that the personal beliefs of the members of this union influence the way in which they carry out their work in programming and commenting, and so on, in the CBC?

Mr. Ward: Not at all, Mr. Chairman. I have no comment whatsoever to make on the way in which they accomplish their duties for the CBC.

• 1730

Mr. Jean-Marc Trépanier (Business Agent, Canadian Wire Service Guild, Local 213, American Newspaper Guild (AFL-CIO-CLC)): I would say that that question should be addressed to the Guild which has the journalist in its unit. The best thing I can say is that as far as I know every one of them is a conscientious journalist. They may have some of the most extreme beliefs that I have ever come across, but I seriously doubt that it shows in their work, and I am speaking now as a fairly impartial journalist myself.

I am not particularly a great lover of the SGCT and in addition to that, we in the

American Newspaper Guild are at the moment taking a case to arbitration, we hope, because we feel that the CBC has interfered with the private opinions of one of our men in the newsroom; opinions which could be labelled separatist or could be labelled anti-constitutional. But we will fight for his right to express those opinions, no matter what they are, and as far as we are concerned the Corporation has never been able to prove or show that that man's work has even been affected by this personal belief.

As a union man and as a journalist I have good reason to believe that our boys are all conscientious journalists and are doing their best to see that the public gets good information on both sides.

Mr. Gray: Is this union that Mr. Ward has told us about the one that co-represents the members of your unit?

Mr. Frajkor: Yes. He is not the one whose case we are taking to arbitration.

Mr. Gray: No.

Mr. Lewis: It is the same union.

Mr. Frajkor: The same union.

Mr. Gray: That is what I wanted to make clear. It seems to me, Mr. Ward, that your indictment of this particular union as having separatist or independentist tendencies and aims raises some serious questions about what these people are doing when they are carrying out their professional work. I am not saying I am ready to come to any conclusions, but you must agree that you have left that question open in the minds of those who listen to you and it is apt to cause some concern.

The other point I wanted to raise for clarification is this. Even assuming, for the sake of argument, that one could accept your views about this particular affiliate of the CSN, is it not correct that the CSN joined with the FTQ, the CLC central in Quebec, to present a memorandum to the Quebec Government taking a definite federalist view in rejecting separatism?

Mr. Ward: This as I recall and I am no expert on this matter—was a stand taken at the highest level of the CNTU, of which the SGCT is only a part, and I made it quite clear that I was speaking of the activities of the SGCT, which is the union claiming to represent CBC employees.

Mr. Gray: I think you actually made a similar argument at one point in your brief. I have not reviewed it in detail since last night but I believe that in your brief you have made some suggestions about separatism and the CSN.

It seems to me that even if one did not agree necessarily with the view of the CSN as to the changes in the Canada Labour Relations Board, in fairness to the CSN they did take a rather strong federalist position in a memorandum which they presented together with the FTQ to the Quebec provincial government. I think Mr. Guay was shaking his head affirmatively when I made this comment initially.

Mr. Lewis: And a third organization, as I remember. I think there were the CNTU, the Quebec Federation of Labour and if I remember correctly the UCC.

Mr. Gray: Yes, that is right; Union catholique des cultivateurs.

The Chairman: Have you finished, Mr. Gray?

Mr. Gray: Yes, thank you very much, Mr. Chairman.

Mr. Munro: On page 8 of the brief, I am referring to the heading "An Irrelevant Criterion" and I am quoting the first sentence.

If, as seems obvious, the real purpose of Bill C-186 is to encourage the setting up of bargaining units in Quebec Province on a cultural and ethnic basis, we submit it is important for Parliament to make up its mind as to whether this is a proper criterion in the industrial relations context. For our part, we submit it is entirely irrelevant.

Why do you feel that it is entirely irrelevant in the Province of Quebec?

• 1735

Mr. Ward: For the same reasons as were expressed by the previous witnesses before you, Mr. Chairman. The things that are important in determining the appropriateness of a bargaining unit are surely those matters which relate to their working conditions and to their salaries; in other words, to those factors which one would call economic factors.

The question of whether they receive proper representation, shall we say, within their

own union structures is something which should be decided by those union structures; and if the members within those unions cannot find a way to express themselves, express their aspirations and their views and their demands within their own union structures, they will inevitably change those union structures as they have changed them in the case of the CBC production workers.

Mr. Munro: Mr. Ward, I think we all agree that many unions, very effective unions at that, felt in the past and feel now that they could advance the interests of the workers in the larger sense by involving themselves in activities other than strict negotiations for better working conditions. I give you the example of unions involving themselves in political activities because they think that in this way the interests of workers can be advanced. They interest themselves now in social and other community endeavours within a community to foster better conditions generally for all the people. We all know that there are very few unions that restrict themselves to the limited area of which you are talking.

We also know that there has been great controversy in Canada about the fear of French Canadian communities that their culture may be eroded as a result of the preponderance of English-speaking influence, and this fear has been expressed by many leading people in the Province of Quebec who are highly regarded and their views have been given sufficient credence by just about all political parties that were prepared to make adjustments along that line.

If unions are to enlarge their sphere of influence and interest beyond the limited degree about which you are talking here on page 8, would you not agree that a cultural and ethnic basis in terms of the French Canadians in the Province of Quebec might justify itself as a criterion?

Mr. Frajkor: Mr. Munro, it is quite true that unions have expanded into other activities. I do not think anybody has ever denied that. But is it still true that a union's main activity is in the cultural sphere and is this the main justification of a union?

Mr. Munro: I did not suggest for one moment that—

Mr. Frajkor: If the CNTU's basis of appeal in this area is a cultural one and not an

economic one, and if you are to sacrifice the economic viability of a union by fragmenting it into a unit much too small to protect its members properly, you may have some of the men who are the most psychologically satisfied in the world and also some of the most starving members in the world. This government is going to have to decide whether or not it wants to satisfy people's psychological needs or whether it wants to satisfy some needs other than that as well.

Mr. Munro: Wait a minute; I am not trying to...

Mr. Frajkor: You will not solve the cultural problem in this area, sir. There is room for human rights legislation and cultural legislation but it is not in the labour law area.

Mr. Munro: But I believe that there is a valid argument for the labour movement and influential unions within the labour movement expanding their interests into cultural and other areas that will promote social betterment for all our people. We recognize this. I think the CLC recognize it when they present a brief to the government each year talking on all sorts of things that really are not strictly applicable to the better working conditions of workers.

Mr. Ward: I think you have put your finger on it, if I may interrupt. I think you have put your finger on the point.

• 1740

Mr. Munro: Yes. There can be an element of hypocrisy here. On the one hand, when you indicate that cultural and ethnic considerations should not be taken into account, you argue it when you are fearful of some other union, but when that consideration is set aside most unions are prepared to advocate quite enthusiastically that they should have an influence and exert an influence in these areas. And they will justify political activity on the same basis. I think we have to be consistent about this matter. If you agree that unions should have an influence in these other areas—as I agree they should—then I put to you, why then should we not consider cultural and ethnic considerations, especially in the context of what is going on between French-speaking and English-speaking Canadians in Canada over the last several years? Why should not any politician realistically take this into consideration as his criterion? That is my question.

Mr. Lewis: They are bargaining units.

Mr. Munro: Yes.

Mr. Ward: It is a very difficult question to answer, Mr. Chairman, but I think the criteria—and there cannot be a whole set of criteria; there must be one governing set of criteria—that should govern the philosophy of a labour relations board in deciding what is an appropriate bargaining unit is the preponderant economic interests of the employees within this unit.

In the case of the CBC there is no doubt about it; the interests of all of the employees across the country in obtaining for themselves better salaries and working conditions and in negotiating in an orderly fashion with the one employer are the criteria that should be preponderant in this area.

It seems to us in this unit, which I represent, that the questions of culture, language and linguistic balance, shall we say, in the internal structures of our union are something that we should decide ourselves within our union and our respective unions here at the table, and this is what we attempt to do. There are occasions when matters which touch on these criteria come into the bargaining process and I will give you one example.

We are negotiating with the CBC now for a new contract, and one of the proposals we have made is for a bilingual premium of 7 per cent of salary for every member of our unit who uses a second language in an overall average percentage of his working hours.

Mr. Lewis: A second official language.

Mr. Ward: As it stands now our proposal refers to any second language and I can go into that if I am questioned on it. But this is a proposal which, flowing from your question, touches upon linguistic and cultural aspects of bargaining. But I do not suggest for a moment that the government or Parliament should instruct us to insist on such a clause in bargaining, for example. I do not think it is a proper matter about which governments or parliaments should tell us what to do.

Mr. Munro: I am not suggesting that either, Mr. Ward, nor am I suggesting that this criterion should be a preponderant one, to use your wording. In view of the generally accepted enlarged rate of labour interests in our community at large, and in view of the situation in terms of French and English

speaking relations in Canada, do you say that this criterion should not even be taken into account or should not even be a factor amongst many other factors that should be taken into account?

Mr. Ward: It should not be taken into account by labour relations boards in deciding the appropriate bargaining unit...

Mr. Munro: It should not be? That is all I wanted to know.

Mr. Ward: ...when you have an employer on a nation-wide scale.

The Chairman: May I just make a point here? This is an important matter but my recollection, Mr. Munro, of the representation of the CNTU when they were here, and I am open to correction, is that when pressed on whether this point of language and ethnic factors was in their view an important factor for determining the appropriateness of a bargaining unit—in fact, I think some members of the Committee went even further to suggest that what really was behind their whole drive was to hive-off French speaking Canadian workers into a preordained ghetto—Mr. Pepin emphatically denied this suggestion.

● 1745

Mr. Gray: I think I asked the question.

Mr. Reid: But the whole point is that this question of cultural and linguistic rights is a reality in Canadian political life, and if national organizations—and others—do not recognize it, then it may well become the absolute criterion for those minority groups affected. It is something that cannot be dismissed with a wave of the hand.

The Chairman: It seems to me that there may have been some ambiguity in what you said or in its interpretation, or what has been imputed to...

Mr. Lewis: Will Mr. Munro permit, and I am sure he will not object when he hears my supplementary question. Mr. Ward, your statement in my submission is far too categorical. Suppose you were dealing with an aspect of the CBC work such as producers, and assume for the moment that producers were employees instead of having managerial functions just for this point, if these were

producers of programs on the French network only, would you then say that the question of the language and culture is irrelevant to the determination of a bargaining unit of producers? Would there not be a perfectly valid reason for saying that there is a community of interest among the French-language producers on the French network different from the community of interests of the English-language producers on the English network?

Mr. Ward: Mr. Chairman, I think this is an extremely dangerous argument to accept even in minuscule. We represent the staff announcers of the CBC who are on the air in both the English and French languages from one end of the country to the other. They have, shall we say, a community of interest on a linguistic basis. It is their livelihood, to use their language in their work.

Mr. Lewis: But announcers read something that someone else has written.

Mr. Ward: Normally.

Mr. Lewis: Suppose you were one of the creative heads who was producing a French program for which you needed a certain budget, and so on. Does that not enter into it?

Mr. Ward: I could give you many examples of such people as farm and fisheries commentators who not only read material prepared by other people but prepare their own programs; they go out and conduct interviews with people and come back and produce those programs on the air. They are, in fact, producers of that type of program, and because of the hodge-podge we have in CBC, it so happens that we represent those people. If I accepted your argument with respect to producers, I would have to accept it with respect to farm and fish commentators.

But it is my contention, and it has been my experience in five years in this union, that the interests of the farm and fish commentators and the announcers with respect. . .

The Chairman: What are farm and fisheries commentators?

Mr. Ward: Farm and fisheries commentators are those who—like George Atkins on the National Farm Broadcast. It appears to me that their interests in so far as they come to the union and talk about them are interests concerned with their working conditions,

their salaries, their hours of work and other conditions related to their employment by the CBC. But there has never been any case in my experience in which they have come to me and said, "We are denied our linguistic or our cultural rights in our employment with the CBC". This has never happened.

Therefore, I think it is proper for me to contend that for those employees within bargaining units working for a common employer, under the same job specification, one nation-wide union is appropriate.

Mr. Munro: Mr. Chairman, as I understand it Mr. Ward, you represent ARTEC; is that right?

Mr. Ward: That is correct.

Mr. Munro: You have 2400 employees in the Canadian Broadcasting Corporation from coast to coast. How many locals have you?

Mr. Ward: We have 13 locals from St. John's to Vancouver.

Mr. Munro: You have a local in Montreal?

Mr. Ward: That is right.

Mr. Munro: How many employees are in that local?

Mr. Ward: Approximately 880.

Mr. Munro: What proportion of those employees are French-Canadian?

Mr. Ward: I would say approximately two-thirds. From two-thirds to three-quarters would be French-speaking.

Mr. Munro: Each of your locals have representatives, I take it, on a negotiating committee when it comes to bargaining; is that right?

• 1750

Mr. Ward: Not necessarily. The structure of our negotiating committee is somewhat different from that described by the previous witnesses before you. We have had a history of 15 years of bargaining with the CBC and over that period we have developed a somewhat more flexible procedure for choosing our negotiating committee. The committee usually consists of one of the more senior staff representatives who has had experience in both the grievance procedure and in bargaining, and he has the right to choose his own

committee from the officers of the union whom he judges most capable of assisting him in negotiations.

Mr. Munro: Who was the staff representative in the past?

Mr. Ward: It has normally been the executive vice-president.

Mr. Munro: And who is that?

Mr. Ward: At the present time it is myself.

Mr. Munro: Are you appointed?

Mr. Ward: Yes.

Mr. Munro: You are not elected?

Mr. Ward: No.

Mr. Munro: And you pick the committee?

Mr. Ward: I am given the authority to choose my committee because of the need to find people who can assist me in the most effective and efficient way at the bargaining table.

Mr. Munro: Who were you appointed by?

Mr. Ward: I am appointed by three national elected officers of the union.

Mr. Munro: Of the international union?

Mr. Ward: We are a Canadian union, sir, with no international connections. I was appointed by the National President, who is beside me, and the two National Vice-Presidents whom he described to you yesterday.

Mr. Munro: How many people do you usually pick for the bargaining committee?

Mr. Ward: Approximately 9, 10, or 11.

Mr. Munro: And what proportion of those would be French Canadian?

Mr. Ward: At the present time there would be 5 who have French as their first language.

Mr. Lewis: Out of what total?

Mr. Ward: Out of a total of 10 at the moment. I insist this is purely a matter of coincidence. They are the most qualified people in their areas to represent the union on that committee.

Mr. Munro: Would you agree with me, getting back to the cultural and ethnic considerations, that it would be advisable at all times to have a healthy representation of French Canadians on your committee?

Mr. Ward: Most definitely. Let me qualify that. It is advisable to have a healthy representation on the committee not only to give a proper balance to the committee as far as its linguistic makeup is concerned but also for a very practical reason, that these are the people who have to sell the new contract to their members in all parts of the country, and we are just as anxious that the contract be accepted in the Province of Quebec as we are everywhere else.

Mr. Munro: Then in your internal operations you do take into account cultural and racial considerations.

Mr. Ward: Most definitely, and I insist that it is a proper matter for internal union organization and structure.

Mr. Munro: Maybe it is not inconsistent then for us to say that certainly it would not be inappropriate to take it into account as a criterion in determining the appropriateness of a bargaining unit?

Mr. Ward: No, sir.

Mr. Munro: I am going to read the last sentence on page 10 of your brief:

If it is desirable to allow unions or employers a second chance to argue their case before the Board in certain circumstances, then surely it is only proper to allow this recourse in all cases.

If we provided for an appeal procedure that resolved the argument that Mr. Lewis and Mr. Gray indulged in a while ago and allowed appeal in all cases, and if there was any doubt about the matter we would make it quite specific, what would your view then be?

● 1755

Mr. Ward: It would still be that we oppose the suggestion of an appeal board. The reason that this question was raised in our brief was because it seems illogical to us that one area of the Board's operations should be singled out and provided with a second level of appeal. But we feel more strongly that there is no need for an appeal division and that it would cause interminable delays which would be piled on top of the delays which have already occurred at CBC.

Mr. Munro: Suppose we built into the legislation, by appropriate amendment, clear time limits on appeals so that you would not encounter these interminable delays that you mention?

Mr. Ward: I feel, Mr. Chairman, this would be impossible to enforce. We have time limits in our arbitration procedure but we very seldom find that the nominees or the chairman of an arbitration board stick to the time limits which are established there, for good and proper reasons, and I can fully understand why. Unless you establish penalties to be imposed against the people who violate these time limits, your proposed addition will have no force.

Mr. Munro: And if we did that what would your view be?

Mr. Ward: It would be very difficult to persuade people to serve on such committees because they would recognize the impracticability of these time limits.

Mr. Munro: If we made these very enforceable provisions and made it quite clear that there could be some type of sanction if the time limits were not adhered to, what would your view be then?

Mr. Ward: I think we would still feel, Mr. Chairman, as we have all along, that the decisions of a tribunal of this nature ought to be final and binding and that any further appeal to any other body would create undesirable delays.

Mr. Munro: If we accepted provision for appeal in all circumstances and set very stringent time limits that were enforceable and deleted Clause 4(a) from the Bill entirely, what would your view be then?

Mr. Ward: The appeal procedure would still persist and our objections to the panel system would persist.

Mr. Frajkor: Particularly from the point of view of the Guild, when you set up an appeal board and then try to modify its powers or put on a time limit it is much like telling a man that we are going to break both your legs and both your arms, and if he objects you say, "Well, how would it be if I only broke your arms"? I do not think the thing should be done in the first place, and mitigating it does not really help very much.

Mr. Munro: I appreciate your view. I am not so loath to consider appeal procedures because I think that they can be very effective at times, and if I feel that way there is no harm in my pursuing the matter to find out whether if we did it in such a way that would remove a good deal of your objections. I would think that your opposition to the bill,

on the hypothesis that we remove 4(a) and put in an appeal procedure that overcame some of the major objections of Mr. Ward, would be ameliorated to some extent in this legislation?

Mr. Frajkor: If you intend to use cultural and ethnic considerations as a basis for certifying a union, would it not be more honest to so specify in that Act.

Mr. Munro: I thought from the questions I had already pursued and the degree of agreement, you might say, that I reached with Mr. Ward, that this is a consideration that we might very well, as a Committee, take into account when we get down to studying this Bill clause by clause.

Mr. Ward: Please do not consider us having a grievance on that point, but...

Mr. Munro: You seemed to indicate that it was not entirely out of the realm of possibility as a criterion, but I may have misunderstood.

Mr. Ward: It is something that is more appropriate...

Mr. Munro: I may have misunderstood you.

Mr. Ward: Yes.

Mr. Munro: On page 11, the second sentence in the second paragraph reads:

Secondly, the labour and management representatives on the Board will no longer be able to act with impartiality and unfettered judgment, since their decisions will now be subject to reversal by two strangers.

It is not casting any reflection on the members of this Board to accuse them of lack of impartiality because when you make a statement like that it is my feeling that you entirely misunderstand the nature of this Board and the manner in which the appointees are made. They are not judicial, they are representative, and it is anticipated and expected, unless we all wish to be hypocrites, that they are going to represent the interests from whence they came and from whence their appointments originated.

• 1800

Mr. Ward: I disagree with you, sir. There is no doubt that according to the Act the labour representatives are there to represent the employees, and this applies to all employees.

Now, if the representatives show partiality and bias based on the criteria of the economic interests of the workers, then I think there are grounds to accuse them of such bias and perhaps change the law to prevent that in the future. This is our view.

Mr. Munro: That is why the board is representative because the one bias neutralizes the other. That is one of the reasons we call it a representative board, because the representatives all have interests.

Mr. Ward: But the suggestion made in the House on December 4 by Mr. Marchand was that they were there not simply to be representative of labour or of employees, but to represent their respective labour centres.

Mr. Munro: You can get around this with the suggested appeal procedures in the Bill, although I am not saying it should be strictly in accordance with the way it is set up here. The only other way you can get around it is to have a public interest board and then there will be no pretence that it is at all representative of the interest from whence it comes.

Mr. Ward: I think there are two objections to that, Mr. Chairman. It is a very deep subject but the two objections that appear on the surface are the lack of familiarity of such people with the day-to-day business of bargaining and internal labour relations between employee and employer. There is also the possibility that such people will be changed according to the government of the day and therefore run the risk of being influenced politically by the government which is appointing them. I think that in all fairness this must be recognized.

Mr. Gray: I have a supplementary question. Is this not possible in the case of the so-called representative members? They can be, and are appointed on pleasure.

Mr. Ward: But it is my understanding they are appointed in consultation with the various labour centres and trade unions from which they are drawn.

Mr. Gray: That is the unofficial procedure but the government of the day is not obliged to accept the recommendations of any of the labour centres.

Mr. Hudson: Could you not say that the board is in the public interest?

Mr. Gray: You could make an argument in that respect, but I merely wanted to add for

clarification that the method of appointment of the so-called representative members is also open to the same potential criticism you make about the appointment of the appeal division, if it ever comes into existence.

Mr. Ward: There are certain checks and balances, though, in the present set up which would not exist under your proposed appeal board.

Mr. Gray: There could be consultation. Let me put it this way. Let us assume the very unlikely event that there is an NDP government...

The Chairman: Unlikely or likely?

Mr. Gray: Unlikely.

The Chairman: Just to keep the record straight.

Mr. Gray: I repeat that again, unlikely.

Mr. Lewis: Mr. Barnett and I are very flattered that you think of us all the time. It must mean something.

Mr. Gray: Perhaps it is not what you think.

Mr. Lewis: Whatever it is it must mean something.

Mr. Gray: You could take a Conservative government...

The Chairman: Oh, that is almost worse.

Mr. Gray: Or a Social Credit government.

Mr. Lewis: There is hope for you.

Mr. Gray: They could consult with the various labour centres and only appoint people they felt were politically sympathetic to them. There is nothing to prevent this in the Act. In fact, it is not even written into the Act that they have to consult at all. All the Act says is that the people have to be representative. The cabinet of the day could meet and say, "We think Joe Blow is representative and we are going to ask the Governor in Council to appoint him without talking to the labour movement at all". This would not be the right way to go about it and I am not suggesting it would be. I just want to say that the way the law is written with respect to appointment of the so-called representative people—that this applies to employers as well—that it is completely open to the type of criticism you have levied in your brief against the method of appointment of the appeal board.

Mr. Barnett: May I interject that if such government action took place, and if there were good grounds, undoubtedly it could be raised in Parliament. What is Parliament for?

Mr. Lewis: In either case.

Mr. Gray: Yes, that is right. Mr. Barnett's point is very well taken and it applies equally well to an improper appointment to the appeal board. I thank Mr. Barnett for making this very sound interjection.

• 1805

[Translation]

Mr. Émard: If everybody keeps interrupting like this, I will not be able to speak again tonight.

[English]

Mr. Munro: I have one more question and then someone else can take over.

Mr. Lewis: May I ask, Mr. Chairman, are you continuing beyond six o'clock? I have to leave.

The Chairman: I think we should continue because only Mr. Emard and Mr. Guay wish to ask questions. If we can finish between six and six-thirty we might as well continue.

Mr. Lewis: I am not objecting; I just want to apologize to you and to the others because I must go.

Mr. Munro: I will not get into this question of fragmentation that I pursued with the other witnesses because there are others that want to speak. However, I do want to say that presumably a preponderate number of the executive officers of your Montreal local would be French Canadian. Is that correct?

Mr. Ward: Yes, that is correct.

Mr. Munro: At negotiation time you appoint people, three or four of whom are French Canadian—I believe you said five are French Canadian—and no doubt most of them would originate from the local in Montreal.

Mr. Ward: These five at the present time include the president of our Montreal local; the national vice-president, who also works in the Montreal local; another member of the permanent staff; plus a gentleman from outside the CBC who is acting as the chief adviser to the negotiating committee.

Mr. Munro: Do you have the same type of arrangement that the other union has as far

as the Montreal local is concerned? If the other locals across the country seem to be content with negotiations and have reached a tentative agreement, does the Montreal local, where the preponderate French Canadian influence is, have a veto?

Mr. Ward: No sir, it does not. Our procedure when we negotiate is to constantly take into account the views of all the members of the negotiating committee and, we hope, the members whom they represent and whose views they are expressing. We attempt to reach a consensus before we put a package agreement to the members. We very, very seldom have a vote as such within our negotiating committee. We try to achieve a consensus.

[Translation]

Mr. Cherrier: I think that there is a point we might perhaps clarify here. Before the negotiations, there is a preparatory conference. The president of each section is invited. I recall, for instance, in 1963, that there was a problem with regard to the St-Jean-Baptiste Society in Montreal. We presented a request so that St-Jean-Baptiste day be declared an official holiday. We had nothing in exchange to offer the English side, and they agreed to support us without any restrictions whatsoever.

I think that the section of the union I represent at the present time is much more based on economic necessity than it is on a question of separation or again on a question of languages. I think the workers in Toronto or Montreal doing identical work need the same demands, need the same applications of a collective agreement as those in St. John's, Nfld. or Vancouver.

I think that the veto could be very good for a union which might feel divided or separated in the beginning but for one like ours, I do not feel that it would be a prime necessity. The French-canadian element—you were told that out of the 3 members of the national committee, two are French Canadians: myself and Jean-Marc Lefebvre—has more than its share of success or representation on this committee.

Mr. Boulanger: Mr. Chairman, I would like to ask you a question.

The Chairman: You wish to ask me a question?

Mr. Boulanger: Yes, on a point of order. My colleague, Mr. John Munro, keeps saying

in English, "French-speaking Canadian". Am I not correct in saying we should be called "Canadians, French-speaking" not "French-speaking Canadians"? Which is correct?

Mr. Gray: He does not say French-speaking, he says French Canadian, I think.

Mr. Boulanger: I mean French Canadian.

The Chairman: I think Mr. Boulanger's point is well taken.

Mr. Boulanger: I think I am inclined to agree that we are Canadians, French-speaking.

The Chairman: I will take that under advisement.

• 1810

Mr. Munro: I agree with your observation. Excuse me for the way I put that. I did so only in the interests of brevity.

Mr. Boulanger: I prefer Canadian, French-speaking.

The Chairman: Are you finished, Mr. Munro?

Mr. Munro: Yes.

The Chairman: All right. Mr. Émard.

[Translation]

Mr. Émard: Mr. Chairman, I have a few brief questions to ask. If I understood correctly, Mr. Cherrier, you are the National President of ARTEC?

Mr. Cherrier: Yes.

Mr. Émard: Are all your members recruited from among CBC employees?

Mr. Cherrier: Yes, most of our members are recruited from the CBC. We have only one other certification for Brandon, Winnipeg, where we have a private station.

Mr. Émard: How about the employees of Tele-Metropole in Montreal. Are they unionized?

Mr. Cherrier: No.

Mr. Émard: Not at all?

Mr. Cherrier: Not at all. I might perhaps give you some explanations in this regard. I think some attempts were made to organize the people at Tele-Metropole. You have to admit that Mr. De Sèves is very intelligent

because all new employees hired by Tele-Metropole become owners of Tele-Metropole because they had to buy shares. In the Labour Code, it is specified that no owner may belong to a trade union.

Mr. Émard: I might tell you that most of the employees of Bell Telephone own shares in the company. Even if it is a company union, an independent union, they still have the right of association. We discussed this here when the company's representatives presented their brief. Employees have a special price when purchasing shares and they also have the right to unionize.

Mr. Cherrier: There might be a difference between Bell Telephone and Tele-Metropole as there may be a difference between the president of Bell Telephone and the president of Tele-Metropole. I think that the attempts made—and there were some attempts—did not favour the individuals who tried to organize a union at Tele-Metropole.

Mr. Boulanger: Another question, Mr. Chairman.

Is there a very great difference between the salaries paid by Tele-Metropole and those paid by the CBC? Would you say that the salaries paid by Tele-Metropole are much lower than the ones paid by the CBC?

Mr. Cherrier: I think that the wages are about the same but I should add that an employee at Tele-Metropole must be a jack-of-all-trades who has perhaps five or six different duties whereas at the CBC the classifications are very distinct. Whereas at the CBC evaluations are made with regard to the work required of each employee, an employee of Tele-Metropole is evaluated according to his productivity.

Mr. Émard: That is just what I was going to ask. Mr. Boulanger has anticipated my question.

Are you attempting to recruit workers from other radio and television stations which are outside the CBC for your union?

Mr. Cherrier: I am glad you asked that question. We tried this in Brandon, and the experiment cost ARTEC more than \$10,000.00, money which had been paid by our members from the CBC.

You will understand that this is partly responsible for our favourable attitude toward a national bargaining unit. Canada is a very large country and trips across

the country, whether for negotiations or grievances, obviously cost a great deal of money. If we are fragmented into small units, then of course it becomes clear that small unions will not be able to travel around to organise employees who are not presently unionized.

We tried it; NABET tried too at a tremendous cost.

• 1815

Mr. Boulanger: You said that they were criticized by the membership because they had spent too much money?

Mr. Cherrier: I do not know if they were criticized by their members, but I know that when we had to report on the cost of our attempt in Brandon, our members were not at all pleased by what we had done.

Mr. Émard: Since it is already a quarter past six, I will cut down the number of questions I was going to ask you. I would just like to have your opinion. What would you think of a cartel between unions? For example, what if some of your members in Montreal, say, or in the province of Quebec belonged to the CNTU and you were obliged to form a cartel in order to negotiate. Do you think it would work? Do you feel that there is absolutely no other way to come to an arrangement, to organize yourselves together?

Mr. Cherrier: Personally, because of all the reasons that were given you this afternoon, I do not think it is viable.

We had the experience of the cartel in the construction trades during Expo. It lasted for the time that there were news items in the newspapers, but it ended when publicity began to fall off. I am certain that the cartel was not as successful as it was expected to be.

At the present time, even if we are separated into four industrial unions, we have had certain difficulties in reaching agreement at the level of negotiations. What would happen if in addition we were separated as to the linguistic aspect?

There was a question asked in the hall a little while ago and I would have liked to have been able to answer; now I will take this opportunity to do so. For the past two days we have been speaking of the CNTU, but let us take as an example the problem which exists in my own union which is a Canadian union with a nation-wide membership.

In Montreal, for instance, it was said that we had 880 members. This number includes the International Service with 90 members. If we accept the proposal made by the government to amend the Bill, it would mean that beginning today or tomorrow, the 90 members of the International Service group—who do the same work as we do, with technicians who do not work necessarily only with the English network or the French network, but often with Northern Affairs or the International Service—would be obliged to separate from the national bargaining unit because of the representations made to the CLRB.

They would not be compelled, obviously. But if they did make an application, what could the CLRB do? Could they say that they were not an appropriate bargaining unit for negotiating for those members? They would answer that their problem was different. In the broadcasting field, the problems inherent in producing programmes are the same from one end of the country to the other.

We were speaking of culture a little while ago. The word "culture" is being used to indicate the French fact. But what about a fellow working in accounting. What has he got to do with culture if, for instance, he deals with a program for the English network or the French network—we have both in Montreal? I bargain with film distributors in Europe and in Paris. Where is the cultural aspect in my duties? I try to obtain films for the CBC at the best possible price, without regard to the film's content.

I think that it was explained to you yesterday: we have artists in Montreal who represent French Canadian culture; we have writers who represent French Canadian culture; but not industrial unions.

A fellow sawing a board on Seminary St. or Barré St. in Montreal is doing exactly the same work as the fellow in Toronto or Vancouver or St. John's, Newfoundland, if the measurements are the same.

• 1820

I asked why the question of culture applied specifically to the CBC because I have my doubts on that point because it was stated in the press.

Mr. Guay: It was a question of the railways.

Mr. Cherrier: Yes, but so far the CBC has been more in the headlines than the railways up to the present time. At least, that is what I am afraid of.

Mr. Guay: Mr. Cherrier, I have several questions to ask you but in view of the late hour, I shall try to sum up in a few words.

You say that you are against the appeal division. It seems to me that the witness who preceded you this afternoon was saying precisely that there was an appeal before the court in Quebec with regard to the City of Quebec employees.

Mr. Cherrier: I must say that I do not know the law of the Province of Quebec with regard to the labour movement because I was never linked in any way with the Labour Relations Board.

Mr. Guay: This is my argument.

Mr. Cherrier: I cannot answer you. Perhaps Mr. Ward could though.

Mr. Ward: Unless I am mistaken, Mr. Chairman, the appeal which was brought before the court in the City of Quebec deals with a question of law or jurisdiction of the Labour Council of Quebec. That is why it was able to give the decision that it gave. I do not think that in Quebec procedure would allow the type of court of appeal which is envisaged in this Bill.

Mr. Guay: I raised this question because the group which gave evidence before you spoke of this interminable delay, saying that they had been pleading the case for four years. They were trying to prove something. So it comes to the same thing. To sum up for myself, it is not only your brief that I am criticizing. It seems to me that we are here before a Committee, and you can tell me afterwards if you agree with me, it seems to me that this Committee is in the process of settling a struggle between unions. In your brief you attack the CNTU; other briefs will perhaps attack the CLC; it seems to me that we are trying to solve a problem, an interunion problem here whereas we should be trying to settle a problem of labour rights. Do you agree with me?

Mr. Cherrier: It should be said that the problem that we are faced with today is a problem which was raised by certain members of Parliament who were looking for support from labour. As I was telling you after our sitting this morning, if Mr. Marchand and Mr. Pelletier had not taken part in the problem which we have to face at the present time, we certainly would not find ourselves with this problem on our hands. Personally, I

do not see why the Bill was changed even before the task force presented its recommendations. The task force was established by special request and includes competent individuals representing the labour movement who are certainly far better qualified specialists than I could ever be. They could bring forward better legal recommendations which would be easier to understand than any I could propose.

Mr. Guay: Let me ask you another question, Mr. Cherrier. Are you now saying that you prefer to continue to be governed for years to come by the present legislation, not Bill C-186 but the Act which presently governs the CLRB? Are you saying that this Act is perfect and should not be amended?

Mr. Cherrier: Unless we have a better act, I would prefer to continue under the present legislation rather than the proposed changes. I would not object if in the near future the magic or miraculous solution were found which would provide the type of balance some people seem to feel is necessary. I am not against your amending the legislation, but I would like to see a valid amendment—not like the one that has been presented at the present time.

Mr. Guay: I will ask you another question, Mr. Cherrier. In these cases, why do groups conversant with labour rights, familiar with labour questions and all the labour conflicts which can occur in our country, never bring forward any concrete proposals? This is a question which still puzzles me. Why do they never make any concrete proposals?

Mr. Cherrier: I will answer this for you. At least I can speak for my own union and I imagine the same is true for others. At the present time we are objecting to a bill; it is not once the Bill has been passed that we should object to it. You are suggesting that we should make some concrete proposals to improve that Act. Our proposals were presented to the task force. Mr. Ward attended two meetings where our trade union was represented and where we made representations to that group to tell them what the advantages and the disadvantages, were what should be improved and what should be eliminated.

• 1825

Mr. Guay: Do you not think that it might have been helpful to us, the members of Parliament, if you had treated this subject in

your brief, since we have to deal with Bill C-186.

We have to study it clause by clause. Perhaps we will have to present some amendments and yet no central labour body has presented any suggestions. They said only that it was worthless. I do not like people who say that something is worthless, that it is finished and done with.

Mr. Cherrier: But why the duplication, Mr. Guay?

Mr. Guay: I do not want any duplication.

Mr. Cherrier: In short, it is a duplication which we would have made.

Mr. Guay: There is one fact that remains: right now we have the Bill before us and all political parties are represented except the Conservative Party which should be here, but which is still boycotting the Committee. I do not think that we want to make it strictly a political question of labour support. We wish to co-operate with everyone. We are not against the CNTU, we are not for the CLC. We are not for the CNTU against the CLC, either. This is what you have to understand. We are members of Parliament, we have to render an accounting of our mandate. I feel that the central labour bodies should have suggested something. This is not a criticism which I am addressing to you alone.

Moreover, I have already said it to you outside this meeting, but I think it is important for it to be on the record: it would have been very helpful to us.

Mr. Cherrier: Mr. Guay, to answer this question, I think that I should like to have at my disposal all the services that you have available here in Ottawa. We have a staff of three permanent employees and three secretaries to represent 2,500 members across Canada.

Mr. Énard: We have a staff of one to represent 75,000 electors.

Mr. Cherrier: Yes, but you have under-secretaries and . . .

Mr. Guay: No, the Committee has its clerk but as members of Parliament—on increase of staff or members of Parliament might be suggested for research—we have only one secretary who must take care of everything in our office.

Mr. Boulanger: We have 350,000 electors.

[English]

The Chairman: We can raise that at a meeting of another committee which deals with the rights of members. I might point out that the Canadian Federation of Agriculture, which will be presenting a brief to members who are interested in agriculture tonight at 7 o'clock, included in its brief two years ago a recommendation that members of Parliament should have, I think, legislative assistance and improved staff. However, I think that is really outside the competence of this Bill.

[Translation]

Mr. Cherrier: I think I might perhaps say the same thing, although I do not have as many electors. I represent 2,000 members here and I am alone at Ile Bizard.

The Chairman: Gentlemen, just a moment. Mr. Barnett would like to ask a supplementary question.

Mr. Barnett: It arises out of the suggestion that nothing positive was being put forward. If instead of Bill C-186 this Committee were considering a proposal amending the bill—I am looking at clause 58 which deals with the composition of the Canada Labour Relations Board—which simply said that the board shall, in addition to the Chairman and the Vice-Chairman, consist of a body not exceeding, we will say, 12 people comprised of an equal number of employee representatives, management representatives and public interest representatives. Would you consider that to be a less objectionable proposal than the present Bill?

[Translation]

Mr. Frajkor: I think that we have already said that the government can always . . .

[English]

Mr. Barnett: You can see this point arises from this question of balance on the board.

[Translation]

Mr. Frajkor: I said that the government can always change the composition of the court if there actually is any sort of intimidation on the part of one union towards another or any prejudice. We suggested it. We did not suggest the exact composition of the court, we simply said that the government can change it. We also suggested—and I feel that this is a positive proposal and an improvement—that all members appointed by the government should be bilingual.

Mr. Ward: Mr. Chairman, if at some future date such a proposal should be made we would come before you fully prepared to answer it, but certainly that is not the intent of this Bill and therefore I do not think we are in a position to comment on it at any great length.

• 1830

Mr. Barnett: I am not suggesting at this hour that you should.

The Chairman: Does that conclude the questions?

First of all, gentlemen, on behalf of the Committee we are delighted you were able to appear before us and present your brief. We are sorry we could not finish our questioning

in one day and we wish you a safe return home.

I might point out to the members of the Committee that on Thursday we will have the Fédération des travailleurs du Québec; the Conseil du travail de Mont-Royal; the Canadian Railway Labour Executives Association; the Brotherhood of Maintenance of Way Employees; the Canadian Brotherhood of Railway Transport and General Workers; the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, and Division 4 of the Railway Employees Department. Perhaps you would like to glance through those briefs.

The meeting stands adjourned until Thursday.

APPENDIX IV

BRIEF

PRESENTED BY

THE QUEBEC COUNCIL OF THE CANADIAN UNION OF PUBLIC EMPLOYEES

TO

THE STANDING COMMITTEE OF THE HOUSE OF COMMONS ON LABOUR AND
EMPLOYMENT RESPECTINGBILL C-186—AN ACT TO AMEND THE INDUSTRIAL RELATIONS—AND DISPUTES
INVESTIGATION ACT -

OTTAWA, CANADA

February 27, 1968

Ottawa, Canada

Mr. Chairman,

Members of the Committee,

The Quebec Council of the Canadian Union of Public Employees is appearing before you to explain the reasons for its rejection of bill C-186.

This bill affects us very closely because our Council groups some 22,000 Quebec workers in the public service, including the production sector employees of the CBC in Montreal and Quebec. The majority of these members, distributed in 75 local unions chartered by the Canadian Union of Public Employees, are affiliated with the Quebec Federation of Labour. We can thus state that we represent an impressive group of workers in the public sector, which, it seems to us, is particularly affected by Bill C-186.

We oppose adoption of this bill because we are in an excellent position to see the threat which it represents to the interests of Quebec labour, particularly in the sector which we represent.

As you are aware, we are engaged in the union battle which has been going on within the CBC for three years now. And we have seen the effects of a multiplicity of bargaining units in Hydro-Quebec, a tragic experience which on several occasions only barely escaped turning into a disaster.

We wish them to review the various developments in this later union experience and to establish a parallel which, we believe, could prove useful to a greater comprehension of all the factors involved in the debate now going on as regards bill C-186.

However, before beginning this review, we would like to point out to you that the strength of the union movement has never been based on division of the workers, but on their unity. As is only natural, workers seek to unite in order to increase their strength and be better armed for the battles which they must fight. Think of the auto workers, the tobacco workers, and others who have demanded and received, through collective bargaining, master agreements for all workers in those industries. The same thing occurred among the employees of American Can and Continental Can, and we can quote many other examples of this unification of union forces in North America. This may be attributed in particular to the union system which prevails in all of North America, including the province of Quebec.

Certification by either the Canada Labour Relations Board or, in Quebec, the Quebec Relations Board, is intended primarily to force the employer to negotiate a collective labour agreement with his employees, or, in other words, to negotiate working conditions. A first machinist in an automobile factory in the United States or a first machinist in the Ste. Therese or Windsor plant are doing similar work and should logically enjoy the same working conditions, whatever their language or nationality. It is for this basic reason that the employees of General Motors at Ste. Therese, without interunion disputes, chose the union which represents the employees of General Motors throughout North America. Our legislation, in Quebec and on the federal level, tends to protect this right to unity. Union solidarity is necessary if there is to be any real force with which to confront the

employer. Any legislation encouraging the division of workers to any degree whatsoever would be harmful and unacceptable. Now, Bill C-186 encourages the division of workers and it is for this reason that our Council opposes it and asks that it be withdrawn from the Order Paper of the House of Commons. We consider this bill unjust, not simply in one section but as a whole. However, we shall leave to other groups, such as the Quebec Federation of Labour, the Canadian office of the Canadian Union of Public Employees, the Canadian Labour Congress and so forth, the task of commenting upon the changes which this Bill is intended to make in the structure of the Canada Labour Relations Board. We have examined the briefs submitted by these groups and we share fully the opinions expressed therein.

It is true that we would like to see the Canada Labour Relations Board become *bilingual* in order to satisfy Quebec requirements but we do not feel that this necessarily requires the adoption of a bill. As regards the provisions dealing with the right of appeal from the decisions of the Canada Labour Relations Board and the composition of the Board, we feel that they reflect unnecessary discredit upon the competence of the Canada Labour Relations Board and that such amendments would complicate procedures and entail inevitable delays.

Section 4-A

In this brief we shall deal more specifically with section 4-A, which would disrupt the entire policy of the Canada Labour Relations Board. Adoption of this section would constitute a precedent which Quebec employers might someday invoke to weaken the bargaining units within the sphere of the Labour Relations Board. This is one loophole which could be, frankly, dangerous.

To illustrate our viewpoint on this subject, we shall outline briefly the account of the unionization of the employees of Hydro-Quebec.

In 1960, there was a Crown Corporation known as Hydro-Quebec. In addition, there were eleven private companies in Quebec which produced and distributed electricity. At that time, the workers of Hydro-Quebec and the private companies were unionized to only a very small extent; there were a few independent associations dominated by the employer and two real unions, one among the employees of the Saguenay and another among the office workers of the Shawinigan. Thus, the very great majority of the

employees were not unionized. Among trades employees, the unionization movement began early in 1961 in what was then Hydro-Quebec. All these employees became members of our union, the Canadian Union of Public Employees. Organization of the other electrical workers began to show progress before nationalization of the electrical companies. By the end of 1965, unionization was almost complete.

On January 1, 1966, when Hydro-Quebec dropped the names of all the companies which it had purchased to form the huge Hydro-Quebec which we know today, there were over twenty-four union certifications within Hydro-Quebec, held by four union congresses and one independent union. Hydro pointed out to the Labour Relations Board, when it requested a union allegiance vote among all its trades and office employees in order to create a single bargaining unit for each group, that there was only one employer and only one company name, Hydro-Quebec. Furthermore, in the petition which it submitted to the Labour Relations Board, it mentioned the enormous difficulties created by interunion rivalry in the negotiations which took place during the year 1965.

In order to understand more clearly the nature of the changes which have come about within Hydro-Quebec, we must realize that the two most powerful unions within Hydro-Quebec were the Confederation of National Trade Unions and the Canadian Union of Public Employees, together with an independent union, the *Syndicat des employés de bureau* (Office Workers Union). The latter signed what was to all intents and purposes a mutual assistance agreement with the Canadian Union of Public Employees in 1965.

Thus, it was between the Canadian Union of Public Employees (C.U.P.E.) and the Confederation of National Trade Unions that competition was the strongest. All the union leaders in both congresses were well aware that the union system then existing within Hydro, i.e. the multiplicity of regional units of different allegiance, would lead inevitably to a hardening of positions towards the employer and would for all practical purposes prevent any true dialogue. Spectacular strikes almost took place in 1965 because of this division of union forces and the rivalry which existed between the groups. It must also be realized that the employer was attempting to standardize working conditions across the province and that this was being made impossible by the overly large number of parties with which it was forced to deal.

The employees of Hydro-Quebec, the company management and the union leaders all recognized that this was an unworkable system. And this is why the two union congresses agreed to a union allegiance vote for two units, the office employees unit and the electrical maintenance, production and transportation employees unit (trades employees). It should be pointed out that by agreeing to the vote, each of the congresses risked the loss of thousands of members (and this did happen to the Confederation of National Trade Unions).

However, since we were confronted with a single employer, the division of union forces led inevitably to a form of competition which left no room for reason or for logic, where the members themselves were able to blackmail their own congress in a way which in the end could only prove harmful to them. It was for this reason that the union allegiance vote of September 30, 1966 was held among all the employees of Hydro-Quebec concerned. It was no longer possible to accept a situation in which a lineman or a substation operator in Trois-Rivières continued to accept working conditions different from those of the lineman or substation operator belonging to the other union congress.

However, within Hydro-Quebec, workers from Abitibi maintain—and we are inclined to believe them—that their temperament and way of life are entirely different from those of their counterparts in Montreal or Saguenay. Parochialism is not dead in Quebec. Even today, if we bowed to the egoism of some groups, the employees of Hydro-Quebec would demand over fifty union certifications in order to protect the interests of their own trade, which to them is the most important thing in the world. Any law which encouraged the breaking up of bargaining units would be forcing the labour movement to take enormous steps backwards, since it would represent a return to the former system of professional trade-unionism. This is the root of the problem. At the beginning of the century, workers organized by professions and very often by isolated regional and local groups to protect their particular interests: up to a certain point, this system was able to meet the needs of the time. However, with the age of big industry, it could be seen that this form of unionism blocked the organization of industrial workers: for example, how could all the employees of an automobile factory or a steelworks unionize within the required length of time if it were necessary

for a recruiting campaign to be carried on simultaneously by ten, twenty or thirty unions? Industrial workers soon realized the inadequacy of such a system and launched the movement which slowly and painfully led to industrial unionism. It is, moreover, this form of unionism which has made possible the importance enjoyed by both the CNTU and the CLC today, since it is the one best suited to our economic structures. As far as we know, big industry is not about to give way to a revival of the cottage industry, and we would be closing our eyes to the realities of the second half of the twentieth century if we accepted a form of unionism which has become obsolete. Bill C-186 encourages this step backwards, and simple good sense shows that it should be condemned.

If by chance Bill C-186 were adopted, if the CBC's production employees separated from their fellow members in the rest of Canada to form their own bargaining unit, obviously production employees in any other region of the country could follow their example. All production centres could claim the same right. Even if this did not happen and only one bargaining unit existed for the rest of the country, their employer, the CBC would have to face two bargaining committees which would come to discuss the same problems. Could this employer offer different working conditions or different salaries to the two groups because of a difference in their language and culture? Is a painter who speaks French worth more or less than a painter who speaks English? Take a script assistant from Toronto and a script assistant from Montreal: do they deserve different salaries for the same job just because they do not belong to the same ethnic group? Not if their work is the same. If their work is not the same, whether it is painters or script assistants who are concerned, the problem is no longer a question of language or culture, but of employment evaluation and classification. In this case the problem could be solved by introducing an effective system of evaluating and describing duties which would set in order the CBC's employment surveys.

If the CBC's employment surveys could be arranged and properly classified according to their value, the employer could not help having the same attitude toward his employees in Montreal, Winnipeg or Toronto. If the occupations were not connected to one another and their nature differed from one place to the next, the employers could offer different working conditions. Any employers worthy of

the name, whether Hydro-Quebec, the Ontario Hydro or the CBC, should make a determined effort to standardize the working conditions of their employees out of simple justice. Moreover, the unions have fought and have launched spectacular strikes in order to standardize the working conditions of employees in the same industry and thus to do away with favouritism.

As a crown Corporation, the CBC cannot have a labour policy which varies from one region to another because of language or religion. It would be more logical for the Confederation of National Trade Unions to call for separation of the Quebec network to form Radio-Quebec than to ask for the adoption of Bill C-186.

Let us return to our hypothesis. How would the next series of negotiations with the CBC turn out if the CNTU won its case and became the bargaining agent for CBC employees in Quebec through the adoption of Bill C-186? Two situations could result:

1. The two certified unions could form a coalition for bargaining. However, what would have been the reason for dividing the bargaining units in that case? If the relations between ethnic groups are at the root of the problem, there is nothing in such a situation which could not be controlled by a single union whose statutes would govern these relations in accordance with the laws of equity and justice. An agreement could be reached without first resorting to division.

2. There could be competition between the two groups. In which case, if one group formed an agreement with the employer and the other group instead decided to strike to obtain further demands the second group's strike would be interminable. It would be difficult for the employer to go back and give the second group more than the first. If this happened, the other group would break the agreement and go on strike, and the situation could continue indefinitely. And if each city and each province, each professional category demanded its own bargaining unit... This argument can be pushed to the absurd.

If bargaining units were broken up, even if one unit was divided into only two, the workers' ultimate weapon, the strike, would be rendered completely ineffective. Even if one of its production centres were paralysed, the CBC could easily continue to offer a com-

plete program by broadcasting entirely from Montreal or Toronto, which ever production centre was not affected by the strike. In such a case, the strike would not act as pressure upon the employer—this is more or less what happened in Montreal at the time of the CBC employees' strike in 1957.

For this reason, the Quebec Council is strictly opposed to the adoption of Bill C-186 because it runs counter to the interests of the workers. This Bill would mark a precedent which might encourage an amendment in Quebec's act. The Quebec Council of the Canadian Union of Public Employees has an effective membership which is 95% French Canadian, and we are certain that dividing the employees of one enterprise into two or more bargaining units according to the classification of their employment categories would result in grave prejudice to our members. We feel that unification of CBC bargaining units across the whole country would be more likely to give our members a truly effective organization and the increased bargaining power that they need.

One can answer that it might be advisable—and perhaps more democratic—to leave the establishment of bargaining units to the workers themselves. If such were the case, Parliament should leave the decision on the boundaries of electoral districts to the choice of the electorate in the name of democracy. As far as we know, it was not the Canadian electors who decided that there would be two hundred and sixty-five (265) electoral districts in Canada and who established the boundaries. It was their elected representatives rather who established the electoral map. If it had been otherwise, we would certainly have more than two thousand (2,000) constituencies in Canada, if not five thousand (5,000) and perhaps even more. Where would democracy be then?

In our opinion, we would be much closer to anarchy... Bill C-186 opens the door to such abuses and we do not feel that it would be undemocratic to delegate to a commission the power of determining bargaining units after hearing the arguments of the parties concerned. This commission is formed of representatives from labour and employers. They have the necessary experience to act wisely.

A candidate needs a certain majority of votes to defeat his opponents and become the member for a given electoral district—and any citizen at all can become a member of Parliament subject to this condition. In the

same way, any central labour congress may apply for certification for the CBC's production employees if it is supported by the majority of employees in this bargaining unit. The CNTU need only follow this rule of the majority if it wishes to represent the employees of the CBC; it should not try to make its own rules. If the CNTU cannot convince the majority of employees forming the bargaining unit across the country, it should turn to other sectors. However, it should not try to mislead the members of Parliament by misrepresenting the very basis of the problem.

The CBC problem is not a question involving freedom to associate based on cultural distinctions. It is a question of choosing between two forms of unionism: a unionism based on the division of workers as was the case of professional unionism and a modern unionism founded on the unification of labour forces.

CBC employees across the country, both French Canadians and English Canadians,

rejected IATSE and the discontent was not limited to Quebec alone. This union was inadequate, it deserved its fate. However, in order to enlarge its framework, the CNTU does not have the right to misrepresent the problem and recommend for CBC employees the opposite to what it has always maintained in Quebec. In fact, the CNTU has never called for the division of natural units in this province. On the contrary, it has called for the unification of bargaining units with respect to both Hydro-Quebec and public employees. It would be logical for the Confederation of National Trade Unions to suggest the same solutions for the same problems and to have one policy for one area.

Roger Lampron
President of the Quebec Council
of the CUPE

André Thibaut
General Secretary of the
Quebec Council of the CUPE.

APPENDIX V

BRIEF

PRESENTED BY

LOCAL 660 (CBC PRODUCTION EMPLOYEES) CHARTER HOLDER OF THE
CANADIAN UNION OF PUBLIC EMPLOYEES

TO

THE STANDING COMMITTEE ON LABOUR AND EMPLOYMENT OF THE
HOUSE OF COMMONS CONCERNING

BILL C-186—AN ACT TO AMEND THE INDUSTRIAL RELATIONS AND
DISPUTES INVESTIGATION ACT

OTTAWA, CANADA

FEBRUARY 27, 1968.

Mr. Chairman,

Honourable Members of the Committee,

This brief is presented to you not by a labour organization but by a group of CBC employees assigned to the production sector of that Corporation in Montreal and in Quebec City. These employees, the majority of which are French-speaking, are conscious of the fact that they have become, as it were, scapegoats in a dispute that has been lasting already too long, and that the basis of this dispute was completely warped at the beginning.

In order to identify ourselves more clearly, we want to point out to you that the signers of this brief have been elected by the production employees, both in Montreal and in Quebec City. Five hundred (500) of the latter, out of a possible seven hundred (700) membership, have joined the Canadian Union of Public Employees. It is important to note here that the majority of these employees were doing it for the second time. Therefore, we are here as spokesmen for the great majority of CBC employees in Quebec. For this reason and for the ones we will enumerate below, we are opposed to the partition of the bargaining unit.

We point out immediately that the production employees of the Canadian Broadcasting Corporation in Quebec do not want to be used as a pretext for the passage of the notorious Bill C-186, a bill that we reject completely and that we find iniquitous and without foundation. On the other hand, we are aware that the labour problem at the CBC is at the bot-

tom of this bill. The dispute which has been going on for a few years on the labour union question at the CBC is sponsored by a very small group of CBC employees, with the support of a labour organization which is trying to convince Members of Parliament that the right of association of the French-speaking employees in Quebec is being hindered. Now, this claim is completely false.

The real problem, and we speak with full knowledge of the facts as we are French-Canadians and employees of the CBC in Quebec, is and remains a problem of labour union efficiency. It is for this reason that it seems necessary to us to set forth here the real nature of the problem encountered in this particular case.

Since 1954, a union called International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada (IATSE-C.L.C.) has been certified as bargaining agent for production employees across the country. These employees became dissatisfied with their union "IATSE" and attempted, on many occasions, to get rid of it. This union was reprovved and is still being reprovved for not being democratic and for setting one group against another, not necessarily Montreal against Toronto, but the other centres against one or the other of these two cities. In other words, it was dividing these employees as much at the professional level as at the linguistic level. Furthermore, it upheld badly the interests of its members, whether rights or interests were in question. Briefly, a growing and general uneasiness in the country was reflected in this labour union.

At the beginning of 1965, a group of production employees from Montreal and Toronto formed a Canadian labour union which they wanted affiliated with the Canadian Labour Congress in order to get rid of IATSE. This group of employees, wanting to know the real opinion of production employees across the country, held a referendum inviting the latter to answer two questions:

1. Do you authorize the Montreal and Toronto executives to take the necessary steps to obtain the revocation of the IATSE certification?

2. Are you in favour of a Canadian union affiliated with the Canadian Labour Congress?

Voting papers were sent to all CBC production centres across the country. IATSE boycotted the vote in every centre except Toronto and Montreal. In these two centres, out of sixteen hundred (1,600) CBC production employees, seven hundred and fifty (750) were members of the Toronto group and six hundred and fifty (650), of the Montreal group.

Here are the answers to question number 1 about the revocation of the IATSE certification: in Montreal, four hundred and seventy-five (475) voted "Yes" and thirty-three (33), "No". In Toronto, three hundred and forty-nine (349) voted "Yes" and thirty one (31), "No". And here are the answers to question number 2 of the referendum, which implied the maintenance of a Canadian bargaining unit: in Montreal, four hundred and fifteen (415) voted "Yes" and eighty (80) voted "No"; in Toronto, three hundred and fifteen (315) voted "Yes" and thirty-five (35) voted "No". Even if we take into account the total of negative answers and of abstentions to the two questions of the referendum, we are forced to admit that the majority which voted for the rejection of the IATSE certification and for the maintenance of the Canadian bargaining unit, is very significant. And if we analyse a little more deeply the eighty (80) votes against a pan-Canadian union, we must conclude that many who voted against affiliation with a Canadian labour union affiliated with the Canadian Labour Congress did so because they wanted to maintain their adhesion to IATSE. It is therefore a very small minority who wanted the division of the unit or the creation of a so-called "natural" unit.

The fact that one hundred and forty (140) persons in Montreal and one hundred and eighty (180) in Toronto abstained from voting can be explained in the following manner: the

IATSE boycott kept a number of people away, many employees were on trips, others are not interested in union business.

After the referendum, the new union "LE SYNDICAT CANADIEN DE LA TÉLÉVISION" secured, in a very short time, the adhesion of a very cosy majority of the members of the bargaining unit across the country and in Quebec. Across the country, the majority was about 78 per cent and in Quebec about 75 per cent and this union requested its certification from the Canada Labour Relations Board. The latter did not grant it because of the provisions of its statutes. However, the Quebec Labour Federation gave its full support to the establishment of this new union.

On the 19th of November 1965, the Canada Labour Relations Board rejected the request of the "Syndicat canadien de la télévision", not because it did not have the majority required by the Law, but because of purely technical questions, in other words because of a flaw in the statutes.

The small group of activists and separatists, who wanted absolutely to divert the debate and place it in the political arena, took advantage of the fact that the Canadian Labour Congress could not grant a charter to this new union, to start a recruiting campaign and spread the rumor that the request of the "Syndicat canadien de la télévision" should be rejected because of a flaw. This intervention was favoured by the Canada Labour Relations Board as the "Syndicat canadien de la télévision" filed its request at the beginning of June and the decision to reject it was only given on November 19. Taking advantage of the confused situation, CNTU supporters succeeded in obtaining a very small majority in Quebec, and filed their request on the 1st of November 1965.

In the initial propaganda, propaganda which continued without a stop, the "Syndicat général du cinéma et de la télévision" (C.N.T.U.) ascribed the cause of the trouble to the CBC, not to the inefficiency of IATSE but to the alleged fact that the English-speaking majority was crushing the French-speaking minority in its efforts to improve working conditions. Relying on the nationalist feeling, this group tried to divert attention from the real cause of the trouble in the CBC, i.e. the complete inefficiency of a union facing a powerful and well organized employer. According to us, the seat of the problem was, and still is, job evaluation, which is done unilaterally and arbitrarily by the employer. It has re-

sulted in many injustices in job descriptions for which many Quebec employees have suffered. Furthermore, the non-democratic organization of IATSE did not allow the employees to express their opinion. This union did not inform its members and, more particularly, did not defend their rightful interests.

It is easy to understand why the "Syndicat général du cinéma et de la télévision" always avoided ascribing to the inefficiency of IATSE the cause of the trouble within the production unit. It is that this trouble was felt in the whole bargaining unit from one end of the country to the other, and if it had taken this into account, this union would have been forced to operate at the Canadian level in order to get a clear majority. But this would have raised huge technical difficulties for the C.N.T.U. and the Confederation's propagandists preferred to raise the racial cry and take advantage of the rejection of the request of the "Syndicat canadien de la télévision" to secure the adhesion of the Quebec group. From there, they talked about the right of association, not in relation to an efficient and homogeneous unit, but about the right of association based on language, which had never been done before any Labour Relations Board at both the federal and provincial levels.

However, the S.G.C.T.-C.N.T.U. request was rejected by the Canadian Labour Relations Board on January 19, 1966, because it did not represent the majority of employees in the bargaining unit. The employees, for whom we are the spokesmen to-day, have asked the Canadian Union of Public Employees to give them a union across the country. In spite of false and violent propaganda by the "Syndicat général du cinéma et de la télévision" (C.N.T.U.), a majority of Canadian and Quebec employees joined the Canadian Union of Public Employees. On the 27th of June 1966, it filed a request for certification before the Canadian Labour Relations Board. The Board ordered a vote between IATSE and the Canadian Union of Public Employees on the 23rd and 24th of November of the same year.

Here were the results:

Canada	
Number of eligible voters ...	1668
Number of registered voters .	1522
For C.U.P.E.	816
For IATSE	439
Ballots declared void	265
Montreal	
Number of eligible voters ..	701

Number of registered voters .	632
For C.U.P.E.	292
For IATSE	78
Ballots declared void	262

On the two hundred and sixty-two (262) ballots declared void by the Canadian Labour Relations Board had been written "C.S.N." or "S.G.C.T."

Sixty-nine (69) persons did not exercise their right to vote in Quebec and realized that they had been duped by the Confederation of National Trade Unions about the real causes of the trouble. The Canadian Union of Public Employees secured a very strong majority across the country, but this was not a clear majority in the sense of the law: it lacked only seventeen (17) votes. It is important to note that if the clear majority of the employees entered on the list of voters was not reached, it is because the systematic propaganda of the Confederation of National Trade Unions in Montreal had its results.

We would like to recall here that, under the rules of the Canadian Labour Relations Board, any propaganda or any other kind of activity by the unions listed on the voting ballots is forbidden, and that the unions concerned can be disqualified if they propagandize forty-eight (48) hours before the opening of the polls and during the duration of the vote. Our union, being pledged to silence and to inaction, could not counterbalance the propaganda campaign which was conducted during the two days preceding the vote and during the two days of the vote, propaganda which took the shape of a systematic boycott. This boycott was the acknowledged work of the Confederation of National Trade Unions. Furthermore, political personalities made public statements inciting the employees to void their ballots, such as René Lévesque, provincial MLA and former minister, Gérard Pelletier, M.P., and Robert Cliche, leader of the New Democratic Party. On the other hand, at the instigation of the Confederation of National Trade Unions (and this was proved before the Canada Labour Relations Board) corridors were blocked and employees intimidated during the two days of the vote. This, unquestionably, is one of the reasons why sixty-nine (69) persons did not exercise their right to vote.

Thus, it is by a minority of two hundred and sixty-two (262) persons, many of whom were impressed by the statements of MM. Lévesque, Pelletier and Cliche and some puzzled by the silence of the Canadian Union of Public Employees, that the vote of November

23 and 24 was boycotted. However, it proved that, in the Province of Quebec, and in spite of the Confederation of National Trade Unions' propaganda, more than three hundred and twenty (320) persons voted for the Canadian Union of Public Employees, which constitutes more proof that the argument in favour of division of the bargaining unit is not that of a majority of Quebec employees. We must not forget all the confusion which was sown in the minds as to the nature of the problem, which should have been considered strictly as a union problem.

Without a clear majority, the Canadian Union of Public Employees was denied certification. Taking advantage of the general confusion and of the statements of the other personalities mentioned above, the Confederation of National Trade Unions had new membership cards signed. According to its own claims, it signed up four hundred and ten (410) members in Quebec and it filed a new request with the Canada Labour Relations Board, which was again rejected on the 21st of June 1967 for the same reasons put forward by the Canada Labour Relations Board the year before.

Facing a rather tragic situation at the union level, the CBC employees in Quebec again asked the Canadian Union of Public Employees to give them a union. A majority was again secured in all of Canada, and in Quebec alone, a very strong majority of the employees joined the Canadian Union of Public Employees. At the time of filing of the request for certification with the Canada Labour Relations Board, out of about seven hundred (700) employees, four hundred and eighty-three (483) had signed membership cards of the Canadian Union of Public Employees. By this adhesion, they undertook to promote a Canadian union and showed their opposition to the division of the bargaining unit. In the previous campaign, none of the unions in contention—neither the "Syndicat général du cinéma et de la télévision" (C.N.T.U.) nor the Canadian Union of Public Employees—had been given such solid support from the Quebec employees. To-day, the Canadian Union of Public Employees numbers more than five hundred (500) members among the production employees in Quebec and, as IATSE has just lost its certification after a referendum, we have every reason to believe that the Canada Labour Relations Board should soon certify the Canadian Union of Public Employees for the whole country. This would end the present stagnation and

allow us finally to negotiate a labour agreement.

We believe that it was useful to give the background of the labour scuffle at the CBC by going into all the details, as we do not want to be associated with a fraud and we are opposed to the passage of an act which would be based on sentiments and desires we do not share, because we do not want the division of the bargaining unit. Union inefficiency is the problem we want to solve and it is not by dividing our unit that we will accomplish this, as we are convinced that the division of the bargaining unit at the CBC would weaken our bargaining power.

Bill C-186, if passed, would morally force, through Section 4-A, the Canada Labour Relations Board to try its previous decisions. This would be baneful for the labour cause in general and, in particular, for the production employees of the CBC, as the door would again be open to an ethnic battle which has nothing to do with the negotiation of a labour agreement. We would prefer that constitutional problems be solved at another level than that of a local union whose main purpose must be the largest unit possible to better look after the interests of its members in its negotiations with the employer. We must oppose one union to one employer.

At any rate, the CBC employees would oppose the separation of the unit because they have to face, not an autonomous Radio-Quebec, but a pan-Canadian corporation: the CBC. One basic principle of the labour movement says that the employees of one company should be grouped within the largest bargaining unit possible in order to have the greatest bargaining power possible. For us, the natural unit at the CBC would be: everyone in one and the same union across the country with statutes protecting the rights of each group.

For the Confederation of National Trade Unions, at the start of the campaign, its famous slogan "natural unit" meant the French network on one side and the English network on the other. And its first battle centered around the separation of the English and French networks. However, it soon realized that this proposition was illogical, as the great majority of employees, whether they are employees of the graphics department, script assistants, production assistants, stage-designers, stage-hands or others, work as much for the English network as for the French network. The production employees in Quebec, in general, work as much for one network as for the other. This can be very

easily proved. We must never forget that we work for a single and same employer.

We admit that the major part of the English network production is done in Toronto. But it is not all done in Toronto, far from it. And the production employees in Montreal are very often called to work for the English network.

The second purpose of the Confederation of National Trade Unions is the separation of Quebec from the other production centres. This is as illogical as the separation of the two networks considering that for the production of programs—news, Canadian affairs, etc.—Quebec employees are called upon to move to and work temporarily in other centres, as applies to script assistants, production assistants and others. Therefore, a certain amount of interchangeability can happen quite frequently. Furthermore, some production centres in Canada can ask the graphics department in Montreal to do some work.

If for us the term "natural unit" means the strongest unit, this term, if misunderstood, can be traded upon for selfish purposes or for special interests. Why not have, at the CBC, a union for Ottawa, another for Winnipeg, another for Toronto, another for Vancouver, another for Quebec City, another one for Montreal, etc.? And to go to the extremes of the ridiculous, why not a bargaining unit for the mechanics, one for the script assistants, one for the stage-hands, one for the graphics people? You can see where this could lead to. All these groups do not always have the same interests and each group can develop a certain individualism, not as individuals but as a group, which would bring anarchy and dispute if each of these units, so-called natural, had the right to its own bargaining committee.

At the CBC, we have not forgotten the sixty-nine (69) days of the 1959 strike which were a complete fiasco because only the Montreal group was on strike. The other production centres continued to operate. Knowing that the CBC has very definite policies for all its employees, even if these policies are not the business of CBC employees, we maintain that it is not by dividing ourselves in small isolated groups that we will be able to change the ideas of this employer, but rather by showing a common front. We are looking for union efficiency and, as the CBC is a Canadian corporation with employees all over

the country, we will only find it by being part of a Canadian labour union grouping all the employees of the corporation in the whole of the country. If the Canada Labour Relations Board has certified a union representing the maintenance employees and elevator operators in Montreal, it is not in recognition of the natural unit defined by the Confederation of National Trade Unions, but only because (this is consistent with the policy of the Canada Labour Relations Board) elsewhere in the country, there are no maintenance men and elevator operators on the CBC pay-rolls. In other centres, the CBC deemed it advisable to entrust to private enterprise the maintenance of its studios and offices and the operation of its elevators, when these are not automatic. Thus, the only CBC employees doing this work are situated in Montreal.

Before ending this brief, we would like to give the reasons why nearly five hundred (500) production employees in Quebec have chosen, like their Canadian fellow-workers, the Canadian Union of Public Employees. The reasons are that this union, in accordance with its organization, has offices across the country and a team of technical advisers in nearly all areas: bargaining, education, research, job evaluation, etc... It is a union that has proved itself in many other fields. By its statutes, it is very democratic and allows its locals to establish their own rules. Thus, we could give ourselves a rule governing our relations between ourselves, production employees across the country, a thing we could not do when we were represented by IATSE. Furthermore, we are assured that, for the first time since 1954, the Quebec delegation on the bargaining committee will be such that our interests will be well guarded and that, this union being Canadian from Halifax to Vancouver, we would be able to face our Canadian employer, the CBC. We also know that it could very easily create unity among other CBC groups, which is what we want. Instead of dividing ourselves still more than we are presently, we want to unite more and more as, for us, unity continues to be strength.

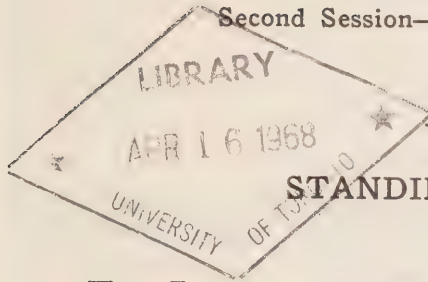
Gilles Pelland,
President—Local
660—CUPE.

Lise Gravel,
Secretary—Local
660—CUPE.

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68



STANDING COMMITTEE
ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

THURSDAY, FEBRUARY 29, 1968

WITNESSES:

From the Quebec Federation of Labour (QFL): Mr. Louis Laberge, President; Mr. Gérard Rancourt, Secrétaire Général. *From the Montreal Labour Council (MLC):* Mr. Guy Dupuis, Executive Secretary; Mr. Henri Gagnon, Member, Executive Committee. *For a group of railway unions:* Mr. C. Smith, Vice-President, Brotherhood of Maintenance of Way Employees, and Chairman, Canadian Railway Labour Executives' Association; Mr. W. J. Smith, President, Canadian Brotherhood of Railway Transport and General Workers; Mr. A. R. Gibbons, Executive Secretary, Canadian Railway Labour Executives' Association.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,	¹ Mr. MacEwan,	Mr. Ormiston,
Mr. Boulanger,	Mr. McCleave,	Mr. Patterson,
Mr. Clermont,	Mr. McKinley,	Mr. Racine,
Mr. Duquet,	Mr. McNulty,	Mr. Régimbal,
Mr. Gray,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Guay,	<i>North and Victoria</i>),	Mr. Ricard,
Mr. Hymmen,	Mr. Munro,	Mr. Stafford—(24).
Mr. Lewis,	Mr. Nielsen,	

Michael A. Measures,
Clerk of the Committee.

¹ Replaced Mr. MacInnis (*Cape Breton South*) on February 29, 1968.

ORDER OF REFERENCE

THURSDAY, February 29, 1968.

Ordered,—That the name of Mr. MacEwan be substituted for that of Mr. MacInnis on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, February 29, 1968.

(13)

The Standing Committee on Labour and Employment met this day at 11.10 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, McCleave, McKinley, Nielson, Ormiston, Régimbal—(15).

Also present: The Honourable Bryce Mackasey and Mr. Choquette, M.P.'s.

In attendance: From the Quebec Federation of Labour (QFL): Mr. Louis Laberge, President; Mr. Gérard Rancourt, Secrétaire Général; Mr. Noël Pérusse, Director of Public Relations; from the Montreal Labour Council (MLC): Mr. Guy Dupuis, Executive Secretary; Mr. Henri Gagnon, Member, Executive Committee.

The Committee resumed consideration of Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced those in attendance.

Mr. Laberge gave an oral summary of the QFL's written brief, copies of which had been distributed to the members; he was questioned from time to time. (*The brief is printed as Appendix VI in this Issue*).

Mr. Laberge was questioned.

At 12.52 p.m., the questioning of Mr. Laberge having been completed for this sitting, the Chairman called upon Mr. Gagnon who gave an oral summary of the MLC's written brief, copies of which had been distributed to the members. (*The brief is printed as Appendix VII in this Issue*).

With Mr. Gagnon's summary continuing, at 1.06 p.m. the Committee adjourned to 3.30 p.m. this day.

AFTERNOON SITTING

(14)

The Committee resumed at 3.49 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Lewis, Munro, Ormiston, Régimbal—(12).

Also present: The Honourable Bryce Mackasey, and Messrs. Allmand, Grégoire and Whelan, M.P.'s.

In attendance: Same as at the morning sitting, with the exception that Mr. Dupuis was replaced by Mr. J. F. Laroche, Vice-President, QFL.

The Chairman introduced Mr. Laroche.

Mr. Gagnon completed his summary.

Mr. Laberge was questioned.

During the absence of the Chairman, from 4.44 p.m. to 4.47 p.m., the Vice-Chairman, Mr. Émard presided.

Messrs. Gagnon and Laberge were questioned, the latter assisted by Messrs. Rancourt and Pérusse.

During the absence of the Chairman, from 5.18 p.m. to 5.27 p.m., the Vice-Chairman, Mr. Émard presided.

Questioning of Mr. Laberge continued.

The questioning having been concluded, the Chairman thanked those in attendance.

At 6.30 p.m., the Committee adjourned to 8.00 p.m. this day.

EVENING SITTING

(15)

The Committee resumed at 8.53 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Guay, Lewis, McCleave, Munro, Ormiston, Reid.—(11)

Also present: Messrs. Grégoire and Prud'homme, M.P.'s.

In attendance: Mr. C. Smith, Vice-President, Brotherhood of Maintenance of Way Employees (BMWE), and also Chairman of Canadian Railway Labour Executives' Association; Mr. W. C. Y. McGregor, Vice-President, Brotherhood of Railway and Steamship Clerks; Mr. W. J. Smith, President, Canadian Brotherhood of Railway Transport and General Workers (CBRT and GW); Mr. J. H. Clark, President, Division No. 4, Railway Employees' Department; Mr. A. R. Gibbons, Executive Secretary, Canadian Railway Labour Executives' Association (CRLEA).

On a matter of procedure raised by Mr. Gray, it was agreed that the Committee would meet until 10.00 p.m. this day and that the Chairman would call a meeting of the Subcommittee on Agenda and Procedure to consider the re-scheduling at a later date of those in attendance this evening.

The Chairman introduced those in attendance and thanked Mr. Gibbons for arranging the group of representatives.

Mr. Gibbons read the written brief of the CRLEA, copies of which had been distributed to the members.

Mr. W. J. Smith read, with one supplementary interjection, the written brief of the CBRT and GW, copies of which had been distributed to the members.

Mr. C. Smith read the written brief of the BMW, copies of which had been distributed to the members.

Reading of the brief having been completed, on motion of Mr. Régimbal, seconded by Mr. Clermont,

Resolved,—That the briefs of those in attendance who had not been heard be printed as Appendices to this Issue (*See Note below.*)

The Chairman thanked the representatives for their attendance.

At 9.57 p.m., the Committee adjourned to Tuesday March 5th, at 11.00 a.m.

Michael A. Measures,
Clerk of the Committee.

Note: The following briefs are printed at the end of this issue:

Appendix VIII—Brotherhood of Railway, Airline, and Steamship Clerks,

Appendix IX—Division No. 4, Railway Employees' Department.

Freight Handlers, Express and Station Employees.

EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, February 29, 1968.

• 1112

The Chairman: Gentlemen, we have a quorum.

First, I will introduce the witnesses before us today. On my immediate right is Mr. Guy Dupuis who is the Executive Secretary of the Montreal Labour Council. Next to Mr. Dupuis is Mr. Henri Gagnon, member of the Executive Committee, Montreal Labour Council and also the Chairman of their Education and Political Action Committee. These two gentlemen will be speaking after Mr. Louis Laberge who is the President of the Quebec Federation of Labour, and Mr. Noel Perusse who is the Secretary General of the Quebec Federation of Labour, and Mr. Noel Peruse who is the Director of Public Relations for the Quebec Federation of Labour.

Mr. Laberge will commence by summarizing the principal points in the brief of the Quebec Federation of Labour. Mr. Dupuis, would you prefer to summarize your brief after Mr. Laberge?

Mr. Guy Dupuis (Executive Secretary, Montreal Labour Council): Yes, and Mr. Gagnon will summarize our brief.

The Chairman: We will first hear Mr. Laberge's summary, then Mr. Gagnon will summarize the principal points in their brief, and then we will have cross-examination on both submissions.

Mr. Régimbal: Mr. Chairman, personally I would prefer that the briefs be presented in toto rather than summarized because, unfortunately, there is a tendency to under emphasize certain points in a summary. I do not think it is fair to expect anyone to bring out all the important points in a summary that they would like to bring out. Perhaps Mr. Laberge would indicate how he would prefer to proceed.

The Chairman: I appreciate the point you have raised. However, every witness to date

has summarized his brief and the basis for taking this approach has been that we all have had an opportunity to read the briefs. Summarizing does allow a longer questioning period. If it is the wish of the Committee to make an exception this time I would prefer that it be treated as an exception rather than a new procedure because up until now it has been the feeling of the Committee that summarizing the briefs has allowed us to move forward more expeditious and has given us more time to cross-examine on the details of the briefs.

Mr. Lewis: What would Mr. Laberge prefer to do?

• 1115

[Translation]

The Chairman: There is simultaneous interpretation.

Mr. Louis Laberge (President, Quebec Labour Federation): I do not need it.

The Chairman: Fine.

Mr. Laberge: In Quebec we can speak both languages and get along pretty well.

The Chairman: Yes.

Mr. Laberge: I . . .

Mr. Lewis: You can answer in French.

Mr. Laberge: Yes, I am going to. I can read the brief or I can give you a summary which might perhaps not be quite as short a summary as you would like but which to my mind might bring out the most important highlights and read at least the end of the brief which also sums it up.

The Chairman: Fine. Fine.

[English]

Mr. Lewis: Before you proceed further, Mr. Chairman, may I say that the card I have received about our meetings contain the horrendous suggestion of a meeting this evening as well as this morning and this afternoon.

The Chairman: If necessary, Mr. Lewis. We have representatives of the railway unions this afternoon.

Mr. Lewis: I may raise this matter again because I cannot attend all meetings.

The Chairman: Let us see how much progress we make.

Mr. Boulanger: If my colleague...

Mr. Guy Dupuis (Executive Secretary, Montreal Labour Council): Mr. Chairman, we might perhaps...

Mr. Boulanger: He should be a lawyer.

Mr. Dupuis: ...for the sake of precision, ask that the Federation present its brief and be questioned and then afterwards the Montreal Harbour Board would present its brief and be questioned on it.

The Chairman: Fine, can we begin then?

Mr. Dupuis: Yes, but we must clarify things too.

The Chairman: Mr. Laberge, you may begin.

Mr. Boulanger: I wanted to ask Mr. Laberge, if he could answer me as a friend—we have known each other for 20 years—is the summary going to be longer than your brief?

Mr. Laberge: That is the chance you are taking.

Mr. Boulanger: All I wanted to point out to the Chairman is that Mr. Laberge's summary could be longer than the brief itself.

The Chairman: We will only find out by trying.

Mr. Lewis: I was going to say that too.

[Translation]

Mr. Laberge: Allow me first of all, gentlemen,...

An hon. Member: Don't stand up.

Mr. Laberge: If you do not mind, I would rather stand.

The Chairman: Fine.

Mr. Boulanger: He is the first to do that.

An hon. Member: Sit down, sit down.

[English]

Mr. McCleave: On a point of order, Mr. Chairman, the interpreters would prefer that he stay close to the microphone.

• 1120

The Chairman: I think it will be all right from there.

[Translation]

Mr. Laberge: I think I can speak loud enough. Anyway we will do it as you wish. We will try and please everyone. The Quebec Federation of Labour, and I think it is important for us to tell you because we have the impression that, perhaps as a result of misinformation or misinterpretation, it seemed to us at one point that you thought that what represented the union congress...

I am not disturbing you too much?

Mr. Boulanger: On a point of order, please. There is a problem of translation. We are not receiving it.

Mr. Guay: They are not getting the interpretation.

Mr. Laberge: Oh, yes. Fine.

Mr. Guay: You can sit there if you want.

The Chairman: There is simultaneous interpretation.

Mr. Laberge: We believe that, perhaps as a result of misinformation or a false impression which was created, several members, at least the government, thought that what represented the workers in Quebec was what we called the Confederation of National Trade Unions, the CNTU. Let me correct this false impression. The Quebec Federation of Labour represents in Quebec from 325 to 350 thousand workers from Quebec, 80 to 85 per cent of whom are French-speaking. Consequently, if there is one union congress which can claim to be representative of more French-speaking members than the other it is not the CNTU but the QFL. Several members, and particularly members on the government benches, also seem to believe that the QFL was only a branch of the CLC and consequently if the CLC were to adopt an attitude, automatically the QFL adopted the same position. This is also false. The fact is that since the beginning of this battle at the CBC, we adopted a different attitude from that taken by the CLC—and this is not criticism on my part, I am simply trying to give you the factual situation—when the CLC through its constitution was forced to continue supporting IATSE which represented the production employees at the CBC. The QFL, right from the outset, said it was against IATSE and supported the production

workers at the CBC who wanted to change their union allegiance. We even participated in the establishment of the Canadian television workers' union which had recruited a majority both in Quebec and throughout the country, and yet was refused by the CLRB on a technicality and solely a technicality. On two subsequent occasions the QFL supported the Canadian Union of Public Employees which also succeeded in recruiting a majority both in Quebec and throughout the country. I am stressing this point because I think it is important. Several members seem to believe that the employees of the CBC, the production unit employees in the CBC in Quebec, wanted to separate themselves from production unit employees of the CBC throughout the country and this is false. It is false, as has been shown by the majority we obtained on three occasions on the part of unions which wanted to continue representing production employees at the CBC on a Canada-wide basis. CUPE on two occasions, the Canadian Union of Television once. So it is false to claim that production unit employees at the CBC absolutely wanted to separate themselves from other production employees throughout the country. What the production employees wanted was to get out of IATSE. And once again the position of the QFL in this regard was different from that expressed by the CLC, which was bound by its constitution to support IATSE. The position of the QFL was also different from that of the CLC and the CNTU, both of whom, in the discussions which took place on the question of the natural bargaining unit as opposed to the national bargaining unit, made it a prime factor in Canadian unity. We at the QFL have always supported the point of view that this had nothing to do with confederation nor with national unity. It was simply a question of union efficiency and the natural aspirations of the workers who want to be belong to the largest possible bargaining unit. This is union efficiency, not belonging to small groups but rather belonging to the largest possible bargaining unit. This is why everywhere, even in bargaining units which do not come under federal jurisdiction you have employees who try to associate themselves with other employees in other provinces precisely to increase their bargaining power. We saw this in the steel industry we saw it in the auto industry, when two years ago there was a strike at St. Thérèse by the GM workers precisely so that the collective agreement would end at the same time as the agreements

in Oshawa, Windsor and Oakville, so that they could bargain on a nation-wide basis even if the bargaining unit was of course local, regional and under provincial jurisdiction. That is why we saw employees of Northern Electric for instance associate themselves with those from Ontario in order to have a larger bargaining unit, even if this does not come under federal jurisdiction either, but rather under provincial jurisdiction.

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Thus, it is a natural aspiration, I repeat, on the part of the workers to want to belong to the largest possible bargaining unit. This moreover the position which has been adopted by all labour movements. The CLC, the independent associations and the CNTU.

During discussion of Bill-54, and this comes back to the argument that was brought up several times on freedom of association, Bill C-186, which to our mind is a political smoke-screen, was supposed to have been brought in in order to protect the freedom of association of workers. This is utterly false. The freedom of association of the workers and of production employees at the CBC is not hindered, is not threatened any more by a national bargaining unit than would be the freedom of association of all other workers throughout the country including Quebec, whether they be under federal or provincial jurisdiction. In 1964, during the discussion on Bill 54, if I remember correctly, the CNTU and the QFL jointly fought against Bill 54 and its ill effects and one of the decisions reached by the government of the day was to eliminate the union plurality. I will try to explain this to you as quickly as possible. Previously, in the Quebec Labour Relations Act, there was both the certification of a majority union at one place and the certification of a minority union which could participate in discussing grievances and even attend bargaining sessions and so on. The CNTU, whose president at the time was the Hon. Jean Marchand, now an M.P. and Minister of Manpower and Immigration, had this clause eliminated because it had no sense whatsoever. It only created economic chaos. We could not have a true union which could become established, we could not have industrial peace, because they were always fighting like cats and dogs over the smallest possible questions, and the smallest possible errors were always being crowded over by the other side, with the result that we could never settle anything. So this was eliminated in Quebec and now we have a monopoly representation just as we have

throughout the country. The worker, consequently, even if he does not want to belong to the majority union is represented by it anyway, because the majority union according to the law represents all workers in a bargaining unit, which is never determined by the workers but is determined by the Labour Relations Board throughout the country and determined by the Canada Labour Relations Board in cases of federal jurisdiction. Workers on the North American Continent have never determined their own bargaining units. It would be chaos if this happened. Jean Marchand himself said in a statement which was published in *Le Devoir* that of course the monopoly of representation can bring about certain hindrances to individual freedom and this is true. There is no doubt about it. The worker who does not want to pay any dues to the recognized labour union, when the labour union has won a Rand formula which is recognized across the country, or the worker who does not want to be represented by that particular union has no choice but is represented by the majority union unless the vast majority or rather the majority of the employees in that bargaining unit also decide that they do not want to be represented by the same union. This is so true that the Building Service Employees' Union recently applied for certification for the employees of Maisonneuve hospital, on Assumption Boulevard, and one of the attorneys for the CNTU objected to the application for certification on the part of building services employees because it would be unnecessarily fragmenting a bargaining unit. Moreover, Jean Marchand himself, when he was president of the CNTU, worked jointly with the Liberal party in Quebec so that there would be only one bargaining unit for all employees of the provincial government, not recognized by the Labour Relations Board but recognized by an individual Bill, a private Bill, passed specifically for this case and this is the provincial bargaining unit. The same thing occurred when it came to the Liquor Control Board employees in Quebec, although at that time we had QFL unions who already represented provincial employees. The Autoroute Authority, The Roads Department employees in Abitibi are two obvious examples where we had been certified, we had a collective agreement and they ignored freedom of association. Once the government had decided that all provincial government employees would be put into the same bargaining unit, they cancelled our certifications, cancelled the

collective agreements and said "You fellows are now going to belong to the CNTU. This is the recognized union." We did not want to burn the fleur de lys flags and say that the government of Quebec was unjust. The fact is that if tomorrow, workers from the provincial government and the Quebec Liquor Board come to see us—we represent, I can state this, gentlemen, it is very easy to verify, we have more people supporting us among provincial government employees who are members of the CNTU than the CNTU has in the CBC, far more—if tomorrow the law were to be amended in Quebec either to allow us to represent groups of employees in the government either on a regional basis, on a departmental basis, we would be able to go and get several thousand. Everyone knows this. But we would be dishonest in being so opportunist and saying "Well, this is an opportunity to go and get several thousand workers. We will go and ask for fragmentation of the bargaining units." This is impossible, unthinkable. You can see the provincial government, just as you will soon see, if C-186 is adopted, the federal government, forced to bargain with several different unions for the workers of one single department because they come from different localities.

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Freedom of association in the CBC is therefore no longer hindered, no longer threatened any more than the freedom of association of all other Canadian workers, including Quebec workers. This is the position of the CNTU in Quebec.

This is the position of the CNTU in Quebec, it is the position of the QFL in Quebec. But it is also the position of the QFL in Ottawa and unfortunately it is not the position of the CNTU in Ottawa. It seems to me then that members have no right to be tricked into thinking that now they are going to adopt a bill and allowing the people to think that they are going to adopt a bill to protect the freedom of association of the workers of CBC.

The problem has been settled at the CBC, moreover. We succeeded so well in recruiting a majority that the CLRB has just certified CUPE; unless of course they dispute even the integrity of the members of the CLRB by saying that they gave us the certification without our having a majority. Of course, this should settle the problem of the CBC and should also support our argument to the effect that CBC employees did not want to separate.

They just wanted to get out of IATSE. The proof is that in Quebec more production employees of the CBC were signed up by us than the CNTU ever signed up among in seven bargaining units so, that is the problem of the CBC. Freedom of association is a false pretext.

Bill C-186—we do not want to get into too much detail on it because everything or almost everything has been said about Bill C-186. So I will deal with it as briefly as possible.

When we say, and it was the Hon. Minister of Labour who said this in the House, that of course there has been an increase in applications for certification and that today, since the CLRB has more work, it might, of course, be logical to let it divide up into panels, when we realize that the Canada Labour Relations Board sat for an average of 3.7 days per month in a survey which was made two years ago, in 1966 and 1967; well, if they are overworked and overburdened by sitting 3.7 days per month, then we will have to have panels for members of parliament who work a lot more than 3.7 days per month, as well as for union representatives and many others. This is an argument which does not hold water. It is far from being true.

The Hon. Jean Marchand went much further to our mind by misleading hon. members. Voluntarily or not, deliberately or not, he did mislead hon. members. When Jean Marchand stated that he had never seen CLC representatives on the CLRB vote against unions affiliated to the CLC except when they were divided among themselves when there were only CLC affiliates involved—this is false, utterly false. And here again a survey has been made. I think it might perhaps be good for us to give you these figures if I can find them without wasting your time. I think that this is important. It is a capital point to our mind. The study of the decisions of the CLRB with regard to the CNTU in '66 and '67 show that either the Minister was lying or that he did not know what he was talking about, and in both cases he was misleading his colleagues. In fact the Labour Gazette—and these are not figures that we made up—and the minutes of the CLRB indicate that during this period of two years the CNTU submitted 29 applications for certification. Eighteen were accepted, eight were rejected and three were withdrawn by the applicants. In fourteen of these twenty-nine instances the CLC intervened, and yet the CNTU won

seven cases, all those which did not involve fragmentation of existing bargaining units. Moreover, during the nine months in which the CNTU delegate was boycotting the CLRB meetings on the orders of his own organization, from November 1966 to July, 1967, the Board handed down 11 decisions on CNTU applications; 6 were accepted, 3 were rejected and 2 were withdrawn by the applicant.

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I think it might be wise to note that in these cases the so-called representatives of the CLC voted in favour and in some cases, for instance the maintenance workers of the CBC building in Montreal itself, where certification was held by the international Building Service Employee's Union, they lost the majority. The representatives of the CLC voted in favour of decertifying them and certifying the CNTU. It is also wise to note, I think, that until this conflict came about with regard to the Angus shops and the CBC, no decision rendered by the CLRB was ever the object of an official written dissent, not even on the part of the CNTU member.

When the Hon. Minister of Manpower and Immigration states that Bill C-186 is going to put an end to certain injustices with regard to unions which are represented in a minority fashion on the CLRB or unions which are not represented at all, here again he is misleading the delegation. We publicly defied the Minister to show us one single case of injustice and we are ready to revise our positions. If there is any administrative agency which has operated well, it is the CLRB. And if the CNTU was put out when it came time to fragment the bargaining units, the same thing happened to us. There were 22 cases in which affiliates of the CLC were rejected because it would fragment a bargaining unit. In this regard the Quebec Labour Relations Board has exactly the same attitude. No difference at all. We had two unions of teachers who had a single certification: the French Catholic teachers union and the English Catholic teachers union. Here there was a cultural aspect which was quite manifest. Both asked the Quebec Labour Relations Board to fragment the unit and to give them each their own jurisdiction. The Quebec Labour Relations Board refused to do so. Like the Quebec Labour Relations Board, the CLRB refuses in all cases involving fragmentation. That is why we in Hydro-Quebec and the CNTU and the QFL got together recently and said: there are 28 bargaining units at Hydro-Quebec. This has no sense. So we asked that in future the

Labour Relations Board to this: there will be two bargaining units, one for all white-collar Hydro-Quebec workers and one for Hydro-Quebec outdoor workers. There was a vote on the part of the two central labour organizations and finally one of them, of course, won. But why did both unions do this? Because this is in the interest of the workers, not to have 28 bargaining units when an employer can pit one group against the other, but to have one bargaining unit only for workers of the same type of occupation. This is what happened at Hydro-Quebec.

As to the other aspect of Bill C-186, to appoint a second vice-chairman so that he will be a French Canadian, if you would allow me, I do not want to insult anyone but it seems to me that this is an insult. We are fed up in Quebec with your making us hewers of wood and drawers of water. Why a French second vice-chairman? Why not the first one? Why not a French chairman?

And to this we are told you cannot find capable people. Well, if you cannot find any capable people to become chairmen or first vice-chairman then where are you going to find one as a second vice-chairman? Once again, we are being given positions as drawers of water, and we do not want them.

Mr. Mackasey: Mr. Laberge,—

Mr. Laberge: Yes.

Mr. Mackasey: May I ask you a question? Are you satisfied with the present chairman of the CLRB, Mr. Brown?

Mr. Laberge: That is precisely the point I am coming to.

Mr. Mackasey: Fine.

Mr. Laberge: What we want is a Chairman and a Vice-Chairman on the CLRB who are efficient, effective, capable of deciding and ruling on the questions which are asked of them, and of course bilingualism should be an important part of this capability that we are seeking. Moreover, the Canadian Labour Congress, a couple of years ago, met the Prime Minister, the Rt. Hon. Lester B. Pearson, and suggested that in view of the departure of the former chairman of the CLRB this was a unique opportunity to appoint a bilingual chairman, or at least to take the first vice-chairman and make him chairman and have a vice-chairman who would be bilingual. Unfortunately the government did not do this. But if they were unable to do so at that time I

think that it would be very unfortunate to have a bill like Bill C-186 passed to cure the ills that could easily be cured otherwise.

Mr. Mackasey: Excuse me, Mr. Laberge, perhaps you did not understand my question. I was simply asking you whether you were satisfied with the present chairman of the CLRB, Mr. Brown?

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Mr. Laberge: Yes, certainly we are satisfied with Mr. Brown, but we would be more satisfied if he were bilingual.

Mr. Gray: Why did you say on page 16 of your brief that English unilingual people should be replaced as soon as possible by honest, competent bilingual people?

Mr. Laberge: This involves the infrastructure of the Department of Labour but you do not need the bill to do this. You have all the powers necessary to ensure that there will be competent people in the infrastructure of the Department of Labour, which is not the case at the present time.

Mr. Gray: Excuse me, before—

Mr. Énard: On a point of order, Mr. Chairman. I too have questions to ask. Every one has some. If we start asking questions right away, then we will never get anywhere later on.

[English]

The Chairman: I agree. I think we should hear the witness out and I will put your names down for questioning. Would you like to continue, Mr. Laberge?

[Translation]

Mr. Laberge: At any rate I think I have said enough about this question of the second vice-chairman. On the other aspect of the bill now, that is forming appeal divisions. We are vehemently opposed to the creation of appeal divisions because then no application for certification could be granted by the CLRB without an appeal being lodged. At the present time, and this has always been the case, as soon as the CLRB receives an application for certification, it advises all the unions whose jurisdiction in this sphere it recognizes and, of course, they notify employers too. Then all the unions, large or small, or some union which deals under the table with the employer, would only have to go before the CLRB and appeal against the bargaining unit chosen

and it will be delayed uselessly before the appeal division. This concerns the employers too, because sooner or later they will have to negotiate a collective agreement. So this means that every time there is an application for certification, the employers receive the list of employees. They want either to add or to subtract names from the list. Mr. Émard knows the process quite well. And each time, this occurs. So there will never be certification without it going into appeal, to an appeal board which would be composed of two people who come from neither labour nor management, who would probably be apolitical but this is not certain. So at that time we would probably have an appeal board which would make decisions with a leaning towards either the Liberals or the Conservatives or the NDP, depending on the government which had chosen the representatives. I think this would be unfortunate. I beg your pardon?

Mr. Mackasey: I will say something a little later on. Excuse me.

Mr. Laberge: You always make me lose my place. As to the other aspect of Bill C-186, concerning the Appeal Board, I think it would be completely disastrous to do this.

As to the panel, and this is one of the reasons why a second vice-chairman would be appointed, to our mind this would also be disastrous because here you do not have to deal with workers from a single region, even if the region is quite vast, like Ontario and Quebec, but it would be workers throughout the country. You would have panels or sections which were packed, because then if it was a CNTU application, there would be several fellows from the CNTU on it. If it was an application from the CLC, there would be some one from the CLC; an application from the railway workers' union, a fellow from the railway; an application from an unrepresented union, who would you have? The panels could also give the impression to the workers that the CLRB had become an organization entirely different from what it was in the past a body which made decisions which did not always please everyone but decisions which no one ever questioned as to their justice and their fairness. Of course, if a union is refused by the CLRB, it is unhappy. At least now we have the impression at the present time that we are being refused for other reasons than patronage or political interference or other inadmissible reasons

that we have experienced in Quebec. We have experienced this, in Quebec!

At one point the CNTU used to say that it had no chance before the Quebec Labour Relations Board and subsequently we claimed that we had no chance when we went before the new Quebec Labour Relations Board because there was political interference. This is bad. You will never be able to settle industrial conflicts if you give the impression to workers and to the unions that it is no longer an administrative board but rather a board which is subject to political pressure. Everyone seems concerned about this. Everyone wants to improve the industrial climate in Quebec and in the country and the fact is that the government has even decided to appoint a task force, chaired by Professor Woods—a task force which is supposed to consider this entire question. If my memory serves me correctly you have already voted a budget of \$1½ million for this. Apparently the Prime Minister had a great deal of confidence in it because in reply to a question which had been asked of him by Mr. Allard, the independent member for Sherbrooke, as to whether the government intended to amend the Industrial Relations and Disputes Investigation Act to allow the recognition of the so-called natural bargaining units, the Prime Minister said, and this was on January 25, 1967, that in view of the fact that they had already appointed a task force, it would be premature for the government to say what it would or would not do in this matter of labour relations. You will therefore understand, gentlemen, our astonishment, even annoyance, after this formal promise, when we know that there is this task force of experts—Father Dion, who is known not only nationally but internationally, Professor John Crispo, Professor Woods, Professor Ellsworth, all of them recognized as experts in this field, when the Prime Minister promises that nothing will be done until the report is received and, bang, then all of a sudden the bill comes in. This seems a little fishy, a little funny that things should happen in this way, to say the least.

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If you will allow me, gentlemen, I would now like to read you the conclusion of our brief, which is not very long. On page...

The Chairman: What page?

Mr. Laberge: It begins on page 27 of the French text and page 26 of the English.

In a word, we have the sad impression that the Parliament of Canada is in the process of having something put over on it, and we are ashamed, as Québec workers, of those who would have you believe that by adopting Bill C-186 you will be making a "concession" to us and protecting our union liberty. It just isn't so.

In the first place, we want nothing to do with the kind of burlesque "special status" whose only effect would be to diminish the Québec workers bargaining power when dealing with their country-wide employers. We know that we would be the victims of an even greater gap between our wages and those of workers in other provinces, were it not for the equalizing influence of cross-Canada bargaining units consecrated by the CLRB or imposed on management of the private sector by the workers over the years. We know that the "panCanadian" wage of each postal employee, of each railroad trainman, of each automobile workers, of each meatpacking workers, of each federal civil servant, and the rest, (Air Canada), is manna to the underdeveloped regions of Québec, and exerts an upward pressure on the regional wage structure. Québec workers have no intention of catering to the whims of a handful of fanatic political activists by sacrificing such benefits, nor overlooking that geographic mobility which, within an enterprise, technical evolution makes so imperative these days.

Neither do we want any part of an erroneous and abusive notion of union liberty that Québec labour (CNTU included) does not practise nor demand in Québec. Even without our having given them any encouragement whatever, there are more QFL partisans in the provincial public service than there are CNTU partisans at Radio-Canada and within the other federal institutions. Yet you have never heard a request from us—nor, indeed, from the CNTU—that the provincial bargaining unit be butchered up according to region or government department. The fact is that our rivals would justly accuse us of undermining union solidarity and sapping the bargaining strength of the civil servants if we undertook such steps in the name of union liberty. Yet this is exactly what the CNTU is doing at the federal level, and what Bill C-186 recommends to the Canada Labour Relations Board. Certainly our judicial system

of labour relations involves what the Minister of Manpower has called "impediments" to union liberty, but not only with regard to the definition of the bargaining unit. Industrial democracy in this respect is similar to political democracy in that it imposes the will of the majority on the minority, which then becomes subject to the work system negotiated in its name by the majority union—and sometimes obliged to be party to it as a condition of employment, plus frequently being forced to pay union dues. The liberty of the workers therefore consists of either orienting a democratic union, or changing unions, or belonging to no union at all, which indeed is the case for 70 per cent of them. It is sufficient in our working society as in political society, that the majority respect the fundamental rights of the minority in order for democracy and liberty to be saved; and this is precisely the case, as we have shown, of all the binational-structured unions whose services were suggested by the QFL to the employees of Radio-Canada.

We can understand that a certain number of members of The House, Québécois especially, and that a portion, and apparently a majority one, of the Cabinet might at some point have been carried away by the thesis expressed in Bill C-186. First, they were subjected to what probably was a brainwashing without precedent in the history of the Canadian Parliament—to a propaganda that played simultaneously on a pair of sensitive strings: everyone's very legitimate desire for freedom, and a certain feeling of guilt toward French Canadians and Québec. Then along came a prestigious man of politics, a Franco-phone unionist from Quebec, and "expert" on labour problems as well as the Quebec problem. He inspired a feeling of good conscience in everyone by proposing a conception of union liberty that he never practised nor defended throughout his union career, and a solution to the national problem that he has fought ferociously since the outset of his political career. Since all members of the House had to make themselves specialists in labour relations and on the Quebec problem overnight, it is no surprise that certain among them—and notably those from the same political party and that party's government, or who represented Quebec ridings—should have been inclined to rely on him and entrust to him the task of settling a ticklish political problem.

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However, we believe we have been able to show you that this is nothing more than a matter of a contrived problem of union liberty and a false problem of relations between Ottawa and Quebec. Those who are primarily concerned, at Radio-Canada, have found a satisfactory solution to their union representation problem; and the Quebec Federation of Labour, which represents the majority of Quebec Francophone workers, refuses to see in Bill C-186 a worthy concession to their national aspirations. Why bill C-186 then? We continue to see it only as a bad political expedient improvised for purposes of labour patronage. This is the way the predominant sector of Quebec Labour will forever continue to view the bill if it is adopted. The bill is a legislative aberration designed to discredit the federal Parliament, the federal labour relations law, the federal Department of Labour and the Canada Labour Relations Board for a long time to come in the eyes of the majority of Quebec's workers.

That is why we cannot insist too much before your committee that it recommend the withdrawal of the bill or its complete rejection by Parliament.

[English]

Mr. Lewis: There is no doubt where he stands.

The Chairman: That can hardly be described as a bland presentation. I thank you.

Mr. Lewis: No one who knows Mr. Laberge expected a bland presentation.

The Chairman: I thank you, Mr. Laberge. It may be premature to thank you, but we will see what emerges.

What is the wish of the Committee? Shall we hear a brief resume from the Montreal Labour Council?

[Translation]

Mr. Laberge: I wonder whether it might not perhaps lead to some confusion; they might answer to questions which were not asked, or vice-versa. Let us say that our brief is fresher in your mind and I wonder, then, whether we should not try to conclude the questioning.

[English]

The Chairman: There is no doubt that it is very fresh in our minds.

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[Translation]

Mr. Énard: On the other hand, you will note that the problems are the same. So the questions that we ask you—

Mr. Laberge: Yes, but the arguments are different in some cases.

[English]

The Chairman: All right, let us proceed. We will start with Mr. Laberge. There is a lot in the brief, his commentary on the circumstances of the Bill and things of that nature, but these are not strictly relevant to the provisions of the Bill. I do not know whether this is an idle suggestion, but I would like members of the Committee to try as best they can to stick to the Bill, the comments about the Bill and the provisions of the Bill; otherwise we might be here a lot longer than necessary.

[Translation]

Mr. Gray: Mr. Chairman, when Mr. Laberge does the same thing, it seems unfair to me that members of the Committee insist that he abstain from questions relative to points raised by Mr. Laberge.

[English]

The Chairman: That is perfectly true; I am not insisting. I was very careful in my choice of words. I was suggesting to members of the Committee that if they want to get through this expeditiously, they might stick to the provisions of the Bill and the arguments against the provisions of the Bill contained in the brief. If you want to go wider that is your prerogative, but I ask you to consider that suggestion. Now, are there any questions...

[Translation]

Mr. Laberge: Mr. Chairman, may I make a request?

The Chairman: Yes.

Mr. Laberge: Could you ask the members of the Committee to identify themselves? We know most of them, of course, but there are a few who are unknown to us.

[English]

The Chairman: I will identify them as we go along. At the moment I do not have anyone who wishes to ask questions. Mr. Ormiston?

Mr. Ormiston: Mr. Laberge, your brief is very critical. I am inclined to believe it is more destructive than constructive. I would

have liked your submission to be more constructive, rather than impugning motives, maligning ministers and making unsupported statements which you did not repeat in your summary. I am wondering whether you have any constructive criticism to offer?

Mr. Laberge: May I ask you to qualify your question? Would you tell me which statement is unsupported?

Mr. Ormiston: For instance, you discuss political scandal on page 4 of the English brief.

Mr. Laberge: Page 4?

Mr. Ormiston: You say "electoral blackmail and patronage." You talk about "moral fraud perpetrated" and "political trickery." These are not terms which we like to...

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Mr. Laberge: Oh, but this is supported by the facts. After all, we have a team of experts that has been named by the government to study this whole field of industrial relations, we have a firm promise by the Prime Minister that nothing would be done without this report from the team of experts, furthermore we have an argument raised by the Hon. Mr. Nicholson to the effect that there is too much work and consequently they have to permit the Canada Labour Relations Board to divide certain powers and so forth, but the facts do not support that.

We have Mr. Jean Marchand's statement to the effect that there have been injustices but when the CNTU representative has never filed a dissident until this CBC affair and before that throughout the years there has never been an official dissident put in even by the CNTU representative, then this is a false statement. The Hon. Jean Marchand goes on to state further that he has never seen the CLC representatives on the CCRO voting against affiliates of the CLC; well, this is a lie.

I am very sorry if we are that political, but as a matter of fact this final draft of the brief is a lot easier than the first draft, because we thought we were going too far and we certainly tried to remain as constructive as we could.

But let me assure you that we really got peeved and mad when we saw the false arguments given by ministers. This we cannot stand for. If they had argued on some basic fact, well, they are entitled to have a differ-

ent opinion than we have, but they should not give false information. I am very sorry if we sound that political.

The Chairman: Mr. Gray?

[Translation]

Mr. Gray: Mr. Laberge, on page 16 of your brief of the French text, we see:

"What we want are a competent President and Vice-President and we want bilingualism to be an essential element of competence at this level of responsibility in all federal administration bodies. Let those who are unilingually English be replaced as quickly as possible by competent and honest bilinguals, let there be "bilingualization" especially in the administrative sectors of the Department of Labour which constitute the infrastructure, at present unilingually English, unless we are mistaken, of the CLRB."

Are you also speaking here of the president and the present vice-president of the CLRB? Are you asking us to fire these men, in your own words?

Mr. Laberge: First of all, let me tell you that the infrastructure is not the CLRB.

Mr. Gray: But you are not speaking only of the infrastructure.

Mr. Laberge: No, but I will try to give a complete answer to your question. The infrastructure are evidently the employees who prepare the files for the CLRB. As for the actual President, we are told that he has wanted to retire for quite some time now, he has asked for permission to withdraw. He is a retired civil servant with pension. He has continued to serve only because apparently he could not find a competent person to act as President.

But, there is no doubt in our minds, that the President and the Vice-President of the CLRB should be bilingual. And, we are saying that this should be an essential element of competence. That does not mean to say that we are going to hang Mr. Brown and the vice-president because they do not speak French. It seems to me that there is such a need for competent people in the Federal Government that there would be other positions, if we find competent persons as President and Vice-President.

Mr. Gray: Mr. Laberge, once again, I want to point out that in your brief you said that those who are unilingually English be

replaced as quickly as possible. And you did not limit it to the infrastructure.

Mr. Laberge: A little further down we say:

"What we want are a competent President, Vice-President, and we want bilingualism to be an essential element of competence at this level of responsibility."

Mr. Gray: Then since the present President and Vice-President are not bilingual, you say that they are not sufficiently competent for their duties.

• 1205

Mr. Laberge: No, that is not what we are saying at all, and we were very careful.

Mr. Gray: That means that you are satisfied in having a President and a Vice-President who are unilingual?

Mr. Laberge: No, we would be more satisfied and we will be more satisfied when we have a President and a Vice-President who are bilingual, but I do not want—and there are enough Members of Parliament who have pronounced doubt as regards the competence and integrity of members of the CLRB—I do not want you to have me say anything whatsoever that might lead you to think that we have no confidence in the present President and Vice-President of the CLRB. We have complete and absolute confidence in them. They are men of integrity and competence, but of course, the day you have a President and a Vice-President who are bilingual and just as competent and with as much integrity, we will be even more happy.

Mr. Gray: The words in your brief speak too. Perhaps now Mr. Laberge you might perhaps give us the benefit of some of your experience in the Province of Quebec. If there are inter-union conflicts in Quebec, in the provincial sphere, what can happen?

Mr. Laberge: What do they do?

Mr. Gray: Yes, the Quebec Labour Relations Board.

Mr. Laberge: I know what question you are trying to ask: Does the chairman decide alone? Yes that is a fact. There is one chairman and seven vice-chairmen at the Quebec Labour Relations Board, and when there is inter-union conflict, it is the president of the section who decides.

Mr. Gray: But do representative members vote on this?

Mr. Laberge: No, they do not vote but they are part of the panel. If you allow a very friendly suggestion but a very frank one too, please do not take the Quebec Labour Relations Board as an example. If there is a body which functions improperly, this is it. We have cases which are delayed at the Quebec Labour Relations Board for 22, 24, 26 and 28 months. There has been an improvement lately, I admit it freely, but all the same, it is not an example to be followed. Before the CLRB matters are settled much faster and so are they in Ontario too. I do not know how they operate in Ontario, but I know it is faster.

Mr. Gray: I am asking these questions because I think you can help us with your experience in the Province of Quebec, where, of course, there are interunion conflicts. Are you campaigning, as you are against Bill C-186, against the Quebec Labour Relations Board to settle inter-union conflicts?

Mr. Laberge: No, we are not engaged in such a campaign. We are waiting for the report of a commission of experts which has been set up in Quebec before we take a stand, instead of doing what you do, namely, taking a stand before the report is submitted.

Mr. Gray: Are you saying that you are committing yourself before us to accept any recommendation made by the Woods task force?

Mr. Laberge: Well, of course not.

Mr. Gray: Then why do you not wish to specify?

Mr. Laberge: If we see 1½ million of our dollars being spent to have experts consider this entire complex question of labour relations and industrial relations which is becoming more and more complex with technological change and development, this does not mean to say that we are ready to blindly accept all the recommendations they are going to make. But I think that the labour movement would be of bad faith, if before seeing the report, it started to oppose it.

Mr. Gray: So you have a great deal of confidence in Mr. Woods, Professor Crispo and the other members of his group?

Mr. Laberge: I would also have confidence if you had taken any other group of experts to make a thorough survey and study in this

field. I would also have confidence that the report could enlighten us.

Mr. Gray: Mr. Laberge, if the government is to appoint men like Dr. Woods and Dr. Crispo to the appeal section, are you going to say that they are political appointments?

• 1210

Mr. Laberge: No, I would say that they are people of a recognized competence, but it does not change the fact that any application for certification would be delayed because it would be referred to this appeal board. Do you allow me to continue? You might just as well tell the Canada Labour Relations Board that it will no longer have the authority to determine the bargaining units, because the appeal board will determine them. Mr. Boulanger, I am telling you this for your information, no application for certification is certified without contestation of it being a bargaining unit, either by the independent union already existing, either by a rival union, or by the employer himself and even by the CLRB, because the CLRB has determined some cases.

Mr. Gray: You are forgetting something important, namely that appeals will be made to the Appeal Board only on one specific section of the Bill and not on all.

Mr. Laberge: This is what I was referring to.

Mr. Gray: I might perhaps ask you another question. Does this mean to say that you are going to withdraw your objection to the appeal section if we appoint people like Dr. Woods and Dr. Crispo and if we insert in the Act a time limit for the ruling by the Appeals Board?

Mr. Laberge: Do you know what would be most logical? Why do you not wait for the report from the task force? I would be the most surprised man in the world if people like Professor Crispo, Professor Woods or Father Dion were to recommend such a procedure, because then that means you no longer have the CLRB. The appeal Board is going to decide. Because they know that any application for certification with regard to the bargaining unit is always questioned either by management, by a rival union or by an independent union.

Mr. Gray: But would you answer my question directly. Would you have less objection to the appeal section if there were a time

limit involved for the ruling of the tribunal and if this tribunal were composed of people like Dr. Woods and Dr. Crispo?

Mr. Laberge: No, not less objection. Then of course you would be eliminating the argument that we used to the effect that it could be political appointments, but we would not object any less.

Mr. Gray: But they would still be political appointments.

Mr. Laberge: Yes, but they would be good appointments; it would not be a question of patronage.

Mr. Gray: So, it is possible to have good appointments on an appeal section?

Mr. Laberge: Certainly.

Mr. Gray: As I have described it.

Mr. Laberge: It is possible to have good appointments but the fact remains, that the Appeal Board is a bad thing in itself.

Mr. Gray: The same risk of political appointments exists with regard to the appointments of the chairman and the vice-chairmen as well as employer and employee representatives.

Mr. Laberge: The risk is very small, in fact, the risk does not exist at all. If the government accepts the suggestions which come from the central labour bodies which have been chosen to...

Mr. Gray: But the government might not necessarily accept them. And I come back to the question of the chairmen and the vice-chairmen. It is not even necessary to seek a suggestion. You are making no criticism with regard to the method of appointing the chairman and vice chairmen. While it is exactly the same thing which is being suggested for the Appeal Board, that is true is it not?

Mr. Laberge: Yes, that is true.

Mr. Gray: May I return to the question of settlement of inter-union conflict in Quebec. Did you conduct any drive like you are doing now against Bill C-186 in the case of the Quebec Labour Code which was before the Quebec Parliament?

Mr. Laberge: No, we did not have the same kind of a campaign. We simply threatened to have a general work stoppage in Que-

bec if Bill 54 had been passed as it was introduced.

Mr. Gray: You accepted the present method of settling inter-labour conflicts without a general work stoppage?

Mr. Laberge: Yes, we did accept this.

Mr. Gray: May I then ask you a question. If we add to the draft bill a proposal to settle similar conflicts in the federal field in the same way that you accepted they be settled in the Province of Quebec, will you still have objections to the draft bill?

Mr. Laberge: I have no objection in principle.

Mr. Gray: No objection, thank you.

• 1215

Mr. Laberge: No objection in principle. Moreover, we have said it on several occasions. I do not know whether you were there at that time, but I see several members of the Committee, Mr. Énard, Mr. Boulanger, Mr. Mackasey and several others, who were in attendance.

Mr. Boulanger: We have the honor of having a Minister.

Mr. Laberge: Yes, we have the honor of having him with us. Is it true that it is the first time there is a Minister present for the submission of a brief?

Mr. Boulanger: No, no...

Mr. Mackasey: In our system, a Minister is still a Member of Parliament, and in the Liberal Party he is at the same level as the new member.

Mr. Gray: Especially now.

Mr. Laberge: All the same it is still an honor for us. No, but we have said it before. In this regard, we have no objection in principle, but once again—if you will allow me, one always says: "why change a winning formula?" There was no severe criticism concerning the CLRB, and if there is a manifest problem, there is also a manifest uneasiness in the entire field of labour relations. That is why, in its wisdom, Parliament decided to establish a task force, have a thorough survey, and then make recommendations. If this were one of the recommendations, I could tell you right now that the QFL would have no objections in principle. I would like to see the totality of the recommendations. Let us not

put a cast on a wooden leg. We must know in what way the leg is taken, also.

Mr. Gray: Are you characterizing the CLRB as being a wooden leg?

Mr. Laberge: No, the Bill is.

Mr. Gray: One more question. Are there no panels in the Quebec Labour Relations Board?

Mr. Laberge: Yes, I said so a little while ago. There are seven vice-presidents who sit separately on—how do they call it—on the benches.

Mr. Gray: On benches. And you accept this?

Mr. Laberge: Well, there is a difference and I dealt with it briefly a little while ago. In Quebec of course you have these benches, it is true, which are sitting in the same building controlled by the same officials. The files are exchanged among them. Everything goes on in the same building. Everything goes smoothly. You have here the mentality of Quebec. In Canada one panel sits in Vancouver, and another one sits at Cape Breton, and a third in Quebec, and I wonder whether it would be just as easy to arrive at consistency and to have rulings and decisions taken with uniformity.

Mr. Gray: You have brought up some serious questions, but if there was an exchange of files, and if the panel had a permanent sitting in Ottawa, not in Vancouver or Halifax or anywhere else, but would travel only to hear cases to be settled in Halifax or Windsor, would this not be the same thing as what you have in Quebec?

Mr. Laberge: Do you know what is going to happen then? Let us take the same three locations, with three similar cases. This means to say then that, if the most important case is in Vancouver and the CLRB can only send the panel to Vancouver the following month, Quebec and Cape Breton will have to wait to see what kind of arguments and what kind of decision is going to come out of Vancouver.

Mr. Gray: Does this not happen at the present time in Quebec?

Mr. Laberge: No, because all is done in the same building. The vice-chairmen have a role in practice for sitting on all cases; it is not some people who sit on one case and some others on others. The same vice-chairmen sit on the entire roll of cases. When it is done in the same building, and everything is central-

ized, they have all the information they need right at their fingertips. The country, however, is much bigger, even if we think Quebec is big.

Mr. Gray: This does not tell me why a group of workers from Windsor or from Vancouver or Halifax which seeks money has to travel to Ottawa.

• 1220

Mr. Laberge: This is a problem, but it has never prevented workers from becoming organized, and never prevented certification of the union.

Mr. Gray: I was told that there were complaints from BC unions, for instance, as to the cost of travel.

Mr. Laberge: It is far, of course. But rather than dividing the CLRB, I would have no objection to the CLRB sitting at these different locations. But as CLRB precisely, to keep uniformity in the rulings and decisions, let the CLRB go and sit, I do not know, one month in Vancouver and one month in Toronto, or one month in Montreal, and I have no objections.

Mr. Gray: But if the CLRB sits as it does at the present time, but like the Quebec Labour Relations Board which sits in the same building, that would remove your objections.

Mr. Laberge: The question of benches or panels does not constitute an objection of principle. We simply fear that we have a lack of efficiency and a lack of uniformity, that is all, it is not a question of principles. Whether the CLRB is a panel or not is not a question of principle.

Mr. Gray: Thank you.

The Chairman: Mr. Émard.

Mr. Émard: If we want to sum up the highlights of Bill C-186 we might say that it suggests, for instance, fragmenting bargaining units based on labour freedom and perhaps on a linguistic difference. This would allow the CLRB to sit in panels, with a Board of Appeal comprising one judge and two representatives from outside labour and management and a second vice-chairman of French language. This is about what the Bill says, do you agree?

Mr. Laberge: More or less.

Mr. Émard: I understand that certain unions who are directly involved in arguments or conflicts between the CNTU and their own unions, base their arguments on the experience that they have had before the CLRB when they present us a case. But in the case of your federation, I would have thought that you would have submitted to us some constructive criticism. We must admit that we have a problem here. The problem is perhaps not on your side but there are several who say that the CLC is favoured by the CLRB at the present time. Some think that they are mistreated by the same Canada Labour Relations Board. We must consider their arguments, but it is rather difficult to find solutions to the problem.

I would have thought that you who are aware of labour problems much more than we are here, would have supplied us with certain constructive criticisms, and really I do not see many in your brief.

• 1225

Mr. Laberge: Mr. Émard, you have just described the situation yourself. It is a very complex problem. It is not a question of changing only one thing, it is a very complex problem. If you had waited for the report of the task force before presenting Bill C-186, not through political opportunism—I am sorry if you find it a harsh word—but to amend the Industrial Relations and Disputes Investigation Act in accord with the report of this task force, then we would have come before you and we would have said, we agree with such and such a recommendation of the task force and for this or that reason. But it is the opposite which happens. How do you want us to react? While we have the assurance of the Prime Minister himself that nothing will be done in this field before the task force has presented its report. But you come in with a Bill like this—what do you want us to think. We mistrust the reasons motivating the Bill. The CLRB has existed for a long time now, for several years. As far as we know, there is not that much of an urgency. Some central labour unions are complaining of the CLRB. Fine! It is their privilege. This same central labour body maintains that it has been treated unjustly by the CLRB for two and a half years. Perhaps the CLRB has changed or perhaps the central labour body has, but one fact remains, and that is that the central labour body was always represented on the CLRB, and never before were there any complaints of injustice from the CLRB

with regard to this particular central labour body. You will admit that everything is happening at the same time: The formation of a task force, complaints from a central labour body, and finally this bill, without even having the report of the task force considered. You admit that most member of this Committee, if not all, are not experts in industrial relations. And you admit that it is an extremely complex problem and then without waiting for the report of this task force, which is undertaking a very thorough study, you decide to bring in a remedy before even knowing what the illness is. Well, we cannot bring constructive criticisms to such a thing.

Mr. Émard: I am giving you my personal opinion. But in my case, I think that if the CLRB had settled the question of IATSE right away, in a reasonable time limit instead of taking 3½ years, we would not have Bill C-186 before us today, which is embarrassing everybody.

Mr. Laberge: We were to take it.

[English]

The Chairman: If you will permit, Mr. Laberge, I think Mr. Boulanger wants to ask a clarifying question; it is not a supplementary question.

[Translation]

Mr. Boulanger: At one point, Mr. Laberge, you said that the Bill is before you and you give us the impression that Bill C-186 is an accomplished fact and that it will be adopted. You should not go further than necessary. The Bill is precisely being studied in Committee to allow us to have the opinions, of your group as well as those of other groups. You have noticed the number of representations there have been so far, and those which are to come yet. You should not speak and answer as if the Bill were already passed or as if there were no possible amendment to it, that nothing could be changed because you are quite forward in your criticism. You always speak of political opportunism. The government administering our country, whether it is Conservative or Liberal, does not administer by political opportunism but according to information which you are going to give us this morning and which others will give. I would like then for you to be a little bit of a labour man and not too much of a politician.

Mr. Régimbal: They have to discuss the bill as it exists.

Mr. Boulanger: It is not an accomplished fact.

[English]

The Chairman: That is more a statement of clarification than a question.

[Translation]

Mr. Laberge: If you will allow me, Mr. Chairman, I still would like to answer the hon. member, Mr. Boulanger.

Mr. Émard: A former colleague of City Hall.

Mr. Laberge: If I write to you, Sir, and I ask you to consider a case which has been brought to my attention of a citizen in your riding who is being misled by members of your political organization; I ask you to look at it and then tell me what you found, and without waiting for your reply, I then go on television and start denouncing you. If I were to do this, you would say "D...guy!" Well then, your government, sir, has appointed a task force—a committee of experts—precisely to study this, and before getting the report...

Mr. Gray: Not only that. It is a similar question.

Mr. Laberge: Yes, but you cannot attack the CLRB without touching all the rest too because, I do not know, perhaps the government, next year, I do not know when, but when it receives the report from this task force perhaps it will decide that in the future there will be no more certifications. It is a possibility. In Europe, there are no certifications. Well, then we can oppose it, and it would be a constructive objection then, for we would tell you: "here are the reasons why we figure that the system of certification would be a more positive one," because then you would have a more positive bill. In our opinion, Bill C-186 is a destructive bill—it destroys something, without, once again having received the report of the task force, without knowing exactly what the illness is that you want to cure.

[English]

The Chairman: Gentlemen, the procedure I propose is that we continue the questions and Mr. Émard is still questioning. Then I have Mr. McKinley, Mr. McCleave and Mr. Régimbal. I suggest that at a quarter to one we invite Mr. Gagnon to make his presentation and then we can start the questions right after lunch. Is that agreeable? Mr. Émard.

• 1230

[Translation]

Mr. Émard: Mr. Chairman, is the QFL coming back this afternoon and this evening too?

Mr. Laberge: We are at your disposal.

[English]

The Chairman: Gentlemen, I draw your attention to the fact that we will have the railway brotherhoods with us this afternoon as well.

[Translation]

Mr. Émard: I will omit certain questions then. A little while ago you mentioned that you were in complete agreement, that is, that you believed in the competency and the integrity of members of the CLRB. I too agree with you. You also said that the CNTU was certified in certain cases. In these cases, was it not a fact that the majority was absolute and not contested?

Mr. Laberge: Of course I am convinced that the CLRB has never certified either the CNTU or any of our affiliates unless there was a majority.

Mr. Émard: The point I am driving at is that in marginal cases, doubtful cases, where the representatives on the CLRB are either labour representatives, the majority of whom belong to the CLC, and certain management representatives too in most cases they are representatives in which the unions they deal with are unions which belong to the CLC. I think then that I have enough integrity that if I had to judge a case, for instance, between certain management areas in which labour was involved, in marginal cases, doubtful cases, borderline cases, I would probably lean towards the labour movement.

Mr. Laberge: This never happens and you know this very well. What does happen, and you tell me whether or not you do not agree, is that either a union affiliated to the CLC, or a CNTU union is there in existence. The other central labour body will come and recruit. If it does not get a majority, that is the end. The existing trade union remains, but normally I think you will recognize that this is true, and this happens in every case. The existing union has the deduction of union dues, which means that it has a majority. The recruiting union also recruits a majority, so what does the CLRB do? In every case with-

out exception, when there are two central labour bodies with a majority, they order a vote. Now, then, where can this normal leaning you were talking about go to in this case? The moment that you have a union already there, never is it decertified by the CLRB without a vote.

That is not what happens in Quebec, precisely. Lately we have had cases again where affiliates of ours had a certification, the CNTU came in and recruited a majority, and our union was decertified and the CNTU was certified without a vote. The CLRB never does this. I would challenge any member and all members of the Committee to name one single case in which an existing union was decertified without a vote. Consequently the natural leaning that you were speaking of does not exist, because these cases never appear.

Mr. Émard: I hope that I will have the opportunity again of questioning you this afternoon.

Mr. Laberge: Are you going to go and get some more questions?

Mr. Émard: No. I have some here already.

Mr. Gray: Mr. Laberge would also have a chance to go and look for some better answers.

Mr. Émard: In concluding, I would like to relate you an experience that happened to a member from the Province of Quebec who telephoned a person who had signed a card objecting to Bill C-186. The Member of Parliament telephoned this fellow and said, "Look, I am calling you about Bill C-186". And the fellow said, "What Bill C-186?" And the member said, "Yes, Bill C-186. The card you signed on behalf of your union". So the fellow replied, "I paid my union dues". And the member said, "No, I mean Bill C-186". And then the fellow replied, "Well, look, if we owe you any money let us know and we will send it to you".

Mr. Laberge: I know several fellows who said that they had never voted on the electoral list and yet their names appeared as though they had. I am just teasing you.

Mr. Émard: I would have been surprised.

[English]

The Chairman: Is that all, Mr. Émard? Mr. McKinley?

• 1235

Mr. McKinley: Mr. Chairman, there is another aspect about which I would like to get an answer. It is not contained in the brief but it is something I have been wondering about. I would like to ask Mr. Laberge whether his union represents any bank employees?

Mr. Laberge: Yes. As a matter of fact, we have just signed the first agreement for bank employees. I do not know whether it is the first in Canada, but it is the first in Quebec. We have signed our agreement with the City and District Savings Banks of Montreal, and it is affiliated with the Quebec Federation of Labour.

Mr. Gray: Is that for all the branches or just for some?

Mr. Laberge: All of the branches; the CCRO treated us exactly as they treated the application made by the CNTU six months' previously. This is important because we had also asked for branches. When we saw the other application turned down we waited until we had a majority.

Mr. Gray: You would not have been opposed to being certified on a fractional basis in that case?

Some hon. Members: Oh, oh.

Mr. Laberge: We would not have been opposed? Let me say this, that the Canada Labour Relations Board has all of the powers to determine which bargaining unit is appropriate. When a bargaining unit is not established then they can establish it in any way they feel is appropriate, but once it is established this is a horse of a different colour. This is what we are talking about, where a bargaining unit is established, whether it be on a national basis, on a provincial basis, or on a two-province basis, such as the Bell Telephone. The IBEW, which is affiliated with the CLC and the QF of L, has campaigned twice. We have spent a lot of time and effort and money and we have been successful in signing a good majority in Quebec. Unfortunately, we have not been so successful in Ontario. We asked for certification, and we were turned down on both occasions because we did not have a majority of the employees covered in the bargaining unit already established.

For your information, for us it was even more important than the bargaining unit for

the CBC employees because there were 10,000 employees involved. I take it you gentlemen all know that the first union to get the Bell Telephone will get the 22,000 or 25,000 who are in the Bell and probably, in addition, the 15,000 in Northern Electric.

Mr. Gray: It is unfortunate you were not as successful in your argument as was the other CLC-affiliated union which represents the directory salesmen. They got accreditation from the Labour Board on a regional basis.

Mr. Laberge: That is right.

Mr. Gray: Toronto and Montreal separately.

Mr. Laberge: Do you know why? Because there was not an established bargaining unit. It is our union, the office employees international union, which, by the way, has signed the first agreement for the bank employees, and which also has the yellow pages salesmen; and in Quebec this is a section on its own. A good salesman in Quebec is not necessarily a good salesman in Ontario because his contacts are in Montreal, Quebec City and Three Rivers, and so forth. A salesman in Quebec is not interested in moving to Ontario because there are no seniority rights and there is not the chance for promotion that there is for production employees.

You talk about the cultural aspects of this bargaining unit of the CBC. Let me ask you this question, and perhaps you will answer me as sincerely as you can: What difference does it make to a carpenter whether he puts a nail in a board for use in a French decor or in an English decor? The same is true of the painter and the cameraman.

You know what is happening in the CBC now. I am being interviewed once in a while and you, as MPs, are also being interviewed once in a while...

Mr. Gray: Not as frequently as you are, unfortunately!

Mr. Laberge: Well, I can understand why! That is only a joke.

But what is happening today? You have all seen this. They send you two reporters, one for the French network and one for the English network, and one cameraman who takes it for both networks. This is the group we are talking about—the cameramen, the painters, the set designers, the carpenters—not the reporters.

• 1240

Mr. McKinley: Further to this bank situation, I am going to refer to clause 1 in the Bill. I will read the explanatory notes:

The purpose of this amendment is to clarify the powers of the Board to determine that employees in one or more self-contained establishments...

could be certified. Would the passage of this Bill make it easier for employees of one branch of a certain bank to strike?

Mr. Laberge: Not at all. It would not make it any easier; and it would not make it any more sensible. Employees in branches are quite often—in fact, very often—transferred from branch to branch. What happens if you organize the employees in one branch and the employees in the other branches are not organized? Or, worse, what happens if District 50 organizes one branch and the CLC organizes another branch? Even in the CLC our unions are autonomous. You could have the steelworkers with one, CUPE with one and the office employees with one. The fact that they are all CLC does not necessarily mean that their transfer from one branch to the other would be any easier. This would make it absolutely impossible for a bank.

Mr. McKinley: It would make it absolutely impossible for a bank?

Mr. Laberge: How could the government bargain with its employees if it had a group in District 50 for, let us say, the transport, a group in CLC, a group in CNTU and a group in allied fishermen of B.C.?

Mr. Lewis: In Montreal?

Mr. Laberge: In Montreal it would be the QF of L probably.

Mr. Lewis: I thought you were putting the allied fishermen of B.C. in Montreal.

Mr. McKinley: You realize what would happen in the other branches of a bank if there happened to be a strike at one branch?

Mr. Laberge: I am not concerned about the banks; I am concerned caring about the employees. To start with, how could you strike a branch? They could keep it closed for months. They would use the other branches, or they could use employees from other branches and open that branch by force. How could you hope to win a strike in a branch? The employees would simply starve and lose their jobs.

Mr. McKinley: There would be a run on money in all those other branches. That is what would happen.

Mr. Laberge: What most probably would happen would be that the bank would call on the good services of governments at all levels, municipal, provincial and federal, who would send all their policemen—they would not be able to run after thieves any longer—and they would force us to open the branch. They would take other employees, one per branch, and send them in and the branch would be open for business.

Furthermore, they would get hold of a judge—you know that judges are not as yet named by us—and he would issue an injunction limiting the number of picketers to one or two, and that would be it.

Mr. McKinley: You would not like that to happen.

Mr. Laberge: I would not organize employees of a branch under false pretences, and I would not support a union that would want to strike them. We know it would be impossible to win such a strike.

Despite some remarks to the effect that I am more a politician than a labour representative, our prime and sole reason for being here is not to raise hell with the government but to raise hell on behalf of the workers whom we represent. As we say in our brief, we are here strictly on the basis of efficiency, and to fragment national bargaining unit working against the workers.

The Chairman: Mr. McCleave?

Mr. McCleave: I have one area of questions for Mr. Laberge. They arise out of the practice of dealing with contested cases before the Quebec Labour Relations Board.

You indicated opposition to that sort of approach because of delays in reaching decisions. Have you any other objection in principle to this approach?

• 1245

Mr. Laberge: To the board of appeal?

Mr. McCleave: No, not to the appeal. As I understand the practice of the Quebec Labour Relations Board in contested cases, the representational members become, in effect, advisers or suggestors but it is the chairman alone who makes the decision. I believe you told us earlier that you thought it was a bad example to follow and I wanted to find out your reasons for saying that.

Mr. Laberge: We are not opposed to such a practice in principle but of course, it always depends on who you have.

Mr. McCleave: Yes.

Mr. Laberge: But it certainly could be as honest having one man signing a decision as it could be having three men or ten men, and there is no question about that. On the other hand, I said not to take the Quebec Labour Relations Board as an example of efficiency. Let me assure you that it takes one heck of a long time in Quebec to be certified, and this is no exaggeration on our part. We have cases that have been before the Board for 22, 24, 26 months.

Mr. McCleave: So your objection to it is that in practice there can be dilatoriness in reaching a decision.

Mr. Laberge: Yes, but I repeat again that we have no objection in principle to having one man decide whenever there are two unions involved, because our labour relations board as I said before, never have settled a fight between two unions in any other way than holding a vote between the two. How much assurance could we get that they will not use their influence one way or the other? Never have they settled anything between the CNTU and the CLC, or any other two unions without holding a vote.

Mr. McCleave: It seems to me that the answer to the dilemma and the serious conflict that we are asked to resolve requires a two-fold approach: the appointment of a bilingual chairman and the adoption of this practice of the Quebec Labour Relations Board. If you have no objection to it in principle, and I gather even the CNTU has no objection to it in principle, then that is the way out; there is a door there if we want to use it.

Mr. Laberge: I am sure you all want to do the very best thing. Perhaps this could be a good compromise but are you sure that this is the very best that Parliament can do?

Mr. McCleave: I do not know...

Mr. Laberge: Do you not agree that you could be surer of the things that you ought to do once you have the report of that commission of experts that have studied extensively the whole field and are able to report to you not only on one aspect but on all aspects?

Mr. McCleave: Mr. Laberge I concede that point. I think that is a good argument.

[Translation]

Mr. Régimbal: This is precisely one of the points on which I wanted to question you. You are satisfied, from past experience, of the way in which the Quebec Labour Relations Board considered the problems with the method of relying on the chairman's decision, and it has given you satisfaction in the cases in which there was conflict.

● 1250

Mr. Laberge: Yes.

Mr. Régimbal: Could you give us any information on the fact of having equal representation, in the sense proposed by bill C-186, in labour representation on the Board. How would this be a disadvantage with regard to labour freedom, precisely on this point?

Mr. Laberge: I am very happy that you asked me this question. The Liberal party at the present time has 180 members, and I do not know exactly, but they have more members on the Committee than the Conservative party or the New Democratic party. In other words, you have representation according to your numeric strength in the government, do you not?

Mr. Régimbal: The initial principle which had recommended the establishment of the CLRB had nothing to do with the numbers of members represented in each group, but, rather had been oriented towards fair representation of the main voices.

Mr. Laberge: Yes, that's it.

Mr. Régimbal: It is only through circumstances that we came to a three to one ratio.

Mr. Laberge: I think it is a good question. There is no doubt at all that at the outset, when the CLRB was formed, the former Trade and Labour Congress of Canada had their representative, the former Canadian Congress of Labour had one, the Railway unions had one and the CNTU had one. But, at that time, in a normal way, the three representatives should have been closer together, even if we did not have the situation that exists now.

But, there is another thing. If the CNTU has one representative because it represents the workers of Quebec, I want the QFL to have one also. And if there are representatives of the CLC here now, they will tell you that it is not true that the QFL and the CLC always think alike. So if the workers in Quebec are to have representation on the CLRB,

why then would the QFL not have a representative there?

[English]

The Chairman: Mr. Régimbal, you will be the first questioner this afternoon, because we did promise Mr. Gagnon that he could present his brief.

Mr. Régimbal: I would like to put one question now because, unfortunately, I might not be at the afternoon session. I would like to correct the impression that Mr. Laberge left, that the Board would seek a regional representation. I do not think it is a matter of regionalism, either; it is just a matter of having a voice in the general framework of the organization.

[Translation]

Mr. Laberge: Precisely, and at that time, the number of representatives had nothing to do with it. Let me tell you that on the CLRB—I think this is an important point—they have a balanced vote. Which means to say that if one day, during a hearing, there is only the representative of the CNTU present, he will vote and his vote will be just as strong as if they were four. In other words, if there are four employers present and only one labour man present, then the vote of the employers could not reverse the opposite vote. And that is very important.

Now, there is a much easier way of settling the problem. The CNTU could affiliate with the CLC and they would have four representatives. It might perhaps happen some day.

[English]

Mr. Mackasey: If the NDP would join our party we would have a majority in the House.

Mr. Laberge: Who knows.

Mr. Lewis: And we would be ready for hell.

[Translation]

Mr. Laberge: And if it were accepted, certain Liberal members would perhaps retire because of your presence.

[English]

Mr. Régimbal: You mean there is a difference?

[Translation]

Mr. Guay: On a point of order, Mr. Chairman, I would like to know what will be the procedure. You were supposed to give a quar-

ter of an hour to Mr. Gagnon from Montreal. . .

• 1255

[English]

The Chairman: That is what we are going to do.

[Translation]

Mr. Guay: I would simply like to know this: what is the procedure for this afternoon and this evening. Can Mr. Laberge come back again because we do have questions to ask him, and when will they return?

[English]

The Chairman: The same group that are here this morning will be here at 3.30 this afternoon, and then as soon as we are through questioning them we will move to the next group of witnesses.

Mr. Gagnon, will you proceed?

[Translation]

Mr. Gagnon: Mr. Chairman, gentlemen, and colleagues, I think that we are discussing a question of national interest here and not just a bill. Bill C-186 as such will create a pattern for the future, and at the same time will bring about other problems of the same scope and of the same type.

Insofar as we are concerned then, we workers and I think in the best interest of the country too, as large bargaining units as possible should be maintained. They are the result of industrial progress for the past few years. And what you have to decide today is whether we are going to pursue this progress which has imposed large bargaining units on workers and society or are we going to go back in history to regional trade unionism. This is what we are studying and considering together today.

Personally, large bargaining units are a mark of historical progress, which history has imposed on us and which we more or less accepted. In a great many cases, it is not complete yet.

Now, with regard to society, where is the advantage? Where do the great difficulties in labour management relations come from? Do they come from large bargaining units, or in a great many cases, from small bargaining units and very small bargaining units? Let us take a look even in Quebec, and it is the same thing for Canada as a whole. The worst strikes, those which hurt society and the trade unions and all citizens, are strikes like

that "7 Up" where you have 101 or 110 workers against an industrial giant on the other side. Whether it be the QFL or the CNTU, the same is true. In strikes like "La Grenade" where you had the death of one person, Miss Thérèse Morin, or strikes like that of the workers at Ayres, where workers have to face something bigger than themselves and their units are too small, where they are being pushed around, where they are forced into certain conditions in order to protect their daily income.

Personally, in Quebec and throughout Canada, from what I can see, there is a general tendency on the part of workers to get away from small bargaining units and to get away from them speedily. In the final analysis, trade unionism can only follow the curve of industry and the way in which industry is established. Here in Canada, as trade unionists, we are dealing with a government employing approximately 238,000 workers. This is a serious business. We must pay attention to it.

● 1300

In industry it is the same thing. There are giant plants. In a great many cases they are giant cartels and monopolies. It has been so for a long time and I know the CNTU have been treating us as if we were American trade unions; those unions which are being influenced from the outside. But this same epithet of interdependency could be applied to Parliament as a whole, and you are not ready to consider yourselves as Americans, I am sure.

So, if there is any freedom that exists here, it is even greater in the trade union movement: I am speaking of my union and on behalf of workers who chose their union because it suits them, because it allows them to fight those same international monopolies. In a great many cases, the salaries of Quebecers were guaranteed by international monopolies. I can speak here of companies like American Can where the floor sweeper has \$3.15 an hour to begin with. I could mention other places where workers almost have a guaranteed wage by larger bargaining units, in the case of tobacco—this is one case. There are others, and this is important for us.

When employees will have enough of American trade unions, they will change them to safeguard their interests. But we do not have any right to insult so many people,

because we do not belong to the same trade union. This is what I wanted to make very clear.

We did not have to decide on the form of society in which we were born. We were born into it. I wonder if, in certain cases, if we did not have these affiliations to defend us, just where would we be? And I say this as a French-Canadian, mind you, who adheres to all his nationalistic aspirations. Principles of bargaining units are very important to the labour movement, and to the trade union movement. We have a heritage in Quebec. There are situations, and they still exist, in which in the one single trade you will find 14 different wages zones—14—and now, my own union—the International Union, has barely but finally succeeded in signing one collective agreement for all the linemen in the province of Quebec. Does that mean to say that your stomach inflates or deflates according to where you live in the province of Quebec? Are you going to say it costs more in Montreal than in Causapsca? \$1.20 an hour for a lineman compared to \$3.50 or \$4.00 an hour in Montreal—how can it be explained? It can be explained only in view of the fact that workers have no unity—no solidarity. Now they have this solidarity. Gaspé still exists. Other places exist, but we have linemen who are happy. Society was not destroyed by this. I think that it has been strengthened.

So what would Bill C-186 give exactly? Even to the workers that the CNTU claims to represent or defend? We know what that means. If all of the workers of the CBC succeeded in obtaining an increase of \$1 an hour, let us say, as a whole, do you think that the minority can get \$1.50 increase? Can anybody believe this? Anyone who knows the union movement can hardly believe this. It would be a little bit idealistic on our part.

● 1305

So, what are the possibilities? What will this give rise to? Do we need any prestige strikes? We do not need any prestige strikes which end as a defeat for the labour movement. And even if there were a strike, let us try and imagine a situation in which there were a strike in Montreal, in the province of Quebec, of a minority. These same people would be the first to ask for the solidarity of workers from other provinces—because you cannot fight a nationwide employer piecemeal. That you are the employer in this case is irrelevant. It is simple logic. And this was seen in the past, where the same workers

were on strike and the first thing they did was to ask their colleagues in Toronto for a solidarity strike. Now, are you going to try and make us believe that we have to withdraw it all? It is nonsense.

I believe, and this is called natural bargaining units, that it is more natural to unite around a community of interest without paying any attention to language, religion, or race. This is what workers have decided; this is what they are going to continue to have in spite of what certain people think. We have heard mention of constitutional rights. Workers do not have to divide themselves with regard to constitutional rights of unions. There has never been any claims for that. If the unions obtain every thing they want and at the same time, then we might perhaps believe that the CNTU is really the representative of the national rights of French-Canadians; but this is not the case. We have a brief given by Mr. Laberge and Mr. Pepin, which calls for federalism. This is just an expediency to help a given cause. There are two problems before us. The right of French-Canadians' national rights seems to bother you. But do not be too agitated because you have two problems. One is the unity of workers around their own interests; that is one problem which can be settled by a larger bargaining unit for these workers with regard to a sole employer. And there is another problem where Quebec workers, or at least those who have national aspirations, must unite with other people in order to claim certain rights, or demand certain rights. Let us not be mistaken, we have here two problems, and the solutions are to be found in two different methods. There has been talk of linguistic rights—yes, fine—but where do linguistic rights lead to in Montreal where you have English-speaking hospitals and French-speaking hospitals? Will the CNTU then propose natural bargaining units? There is no question of it. There is not even any question of thinking about it. Some people are looking at the clock—I cannot see it—but I will conclude.

Mr. Clermont: This is the reason why I can speak for myself only, and I know, Mr. Lewis, too. I was supposed to attend another meeting at 12.30 p.m., but out of respect for you...

Mr. Gagnon: I will shorten it.

Mr. Lewis: Do you have to speak very long though? We could continue this afternoon.

Mr. Gagnon: In five minutes I will be done, all right?

Mr. Clermont: Very well.

Mr. Gagnon: The problem has been displaced here—the linguistic problem. If we yield to the solving of problems in this particular way, then I can tell you that you are on the road, not of national unity, but of national division, because the CNTU campaign rests at the present time on this idea; "Why should we unite with English-speaking workers in other provinces that we have never seen and will never know?" That is in their documents, and this is a national provocation.

• 1310

Mr. Boulanger: We should say this to Robert Cliche and to René Levesque in the case of the CBC.

Mr. Gagnon: I do not mind telling them too, if it is necessary. I would not be more hesitant than in telling it to you.

Mr. Boulanger: I have told so to Robert Cliche on many occasions.

Mr. Gagnon: Anyway, you are taking my minutes away from me now. These are my minutes...

Mr. Clermont: That is not true, Mr. Gagnon, because we did offer you the floor again this afternoon, so we are not stealing anything from you. You could take five minutes this afternoon.

Mr. Gagnon: Can I accept? I shall then take five minutes this afternoon. It is up to you.

Mr. Lewis: Mr. Chairman, I do not think it is fair to Mr. Gagnon to have him under a hammer of time. There is no need for it as we will be sitting again at 3.30 p.m. I move we adjourn until this afternoon when Mr. Gagnon can finish.

Mr. Gray: Hear, hear, I support that.

The Chairman: I would just like to clarify the situation. Mr. Gagnon was not under a hammer of time, there was a certain time allocated for his presentation.

Mr. Lewis: I was not blaming you.

The Chairman: If it is all right with Mr. Gagnon...

Mr. Gagnon: That is fine. I will go along with the majority.

The Chairman: Let us be clear. It will be 3.30 p.m. or whenever Orders of the Day are finished, which could be later than 3.30 p.m. We will try to start at 3.30 p.m., but if we are delayed it will be because we have not finished the question period.

AFTERNOON SITTING

[English]

The Chairman: Gentlemen, I see a quorum.

We will continue with Mr. Gagnon who will complete his résumé.

• 1550

I might draw the Committee's attention to the fact that we also have with us today Mr. Laroche, the Vice-President of the Quebec Federation of Labour. Welcome to our meeting, Mr. Laroche. He, of course, along with the other gentlemen from the FTQ, will be ready to answer questions.

Mr. Gagnon, would you like to wind up your remarks?

[Translation]

Mr. Henri Gagnon (member of the Executive Committee of the Montreal Labour Council): Thank you, Mr. Chairman. I was expressing the idea that somebody has mixed up the cards with regard to Bill C-186. In fact, what is being considered as one phenomenon, really involves two: on the one hand, the phenomenon of the unity of workers without racial distinction, and on the other hand, that of the defence of French Canadian national interests. Both phenomena have a common front in some issues. This is completely defensible. In my opinion, it would be an error for any Canadian, whether he be French or English-speaking, to yield to organized pressures. I believe that the CNTU is using arguments stemming from the narrowest nationalism. The CNTU has adopted some expedients in order to increase its membership. I would go so far as to say that these are dangerous expedients.

By acting in this way, the CNTU is liable to liberate other latent forces in Quebec. We should at least take into consideration that there might be a relationship. If we examine certain aspects of the latest demonstration with regard to Seven-Up and the workers of Town of Mount Royal, we can see the work of these latent forces which revolve around the CNTU.

Mr. Boulanger: I was going to bring up a point of privilege. If you will allow me, Mr. Chairman, on a point of order. Mr. Gagnon, it should be understood that we are discussing Bill C-186, and that we are not calling to account the CNTU or any other labour union. You should not wander too far from the topic which concerns us. Please be careful of this. We are not taking action against the CNTU.

Mr. Gagnon: The latent forces I wanted to talk about are precisely those that revolve around the labour movement and which threaten to override it, without differentiation. In fact, in Town of Mount Royal, they did not differentiate between the Seven-Up company and the homes of private citizens. These forces made the workers turn over any automobile that they met on their path. This is a problem of national interest. You cannot limit the discussions to only this sphere, not in my opinion.

Until now, the labour movement has been able to resist narrow nationalism, but we do not think it can continue to do so for years and years. At the present time, we are going through a crisis, a rather serious crisis, in which it is more and more easy for certain people to tell French-speaking workers that their misfortunes are due to English-speaking workers and to the rest of English Canada. All of this is closely related to Bill C-186. I say that we are taking a step backwards. Even if it were only to tone down the demands of the CNTU, it is a backward step which may be disastrous. It is similar to the step taken by Mr. Chamberlain at one point in history. After all, the forces of which I have spoken concerning narrow nationalism are not easily appeased. The more they eat, the bigger grows their appetite. Bill C-186 is a great victory for the people of the CNTU. In my mind there is no doubt but that the adoption of Bill C-186 would result in national commotion, while it would also pit French-speaking workers against English-speaking workers. To my way of thinking, this bears a relationship to Bill C-186.

• 1555

We cannot be accomplices to the adoption of something which is going to confine workers to their own language and to their own petty nationalism. Nor can we accept the idea that the basis for the unity of workers must be a linguistic one, because, in such a case, I claim that we are playing the game of the forces I have spoken about. I will round out

this thought by imparting to you an idea which I consider to be very important: we have directed the battle towards the right of association, towards freedom of association. So far, throughout history, the words "right" and "liberty" have often been made infamous because they have been used in every movement to cover crimes and backward steps. Once and for all we will have to differentiate the rights and freedom which make us progress from those which threaten to hold us back.

Around 1789, in France, the Chouans as well marched on behalf of liberty in order to prevent the transformation of society. No doubt some cavemen, again on behalf of liberty, wanted to stay in their caves and opposed those who wanted to leave. In so far as the feudal ages are concerned, its representatives also marched in the name of liberty. What is this freedom and right of association? We speak of a nation. It is an abstract concept and we cannot discuss it in an abstract way without relating it to something serious. I maintain that individual liberties and rights must serve the needs for industrial progress in our country. They must be linked to the need for progress in society. I am aware that in the past, and in the name of liberty, we left Quebec attached to the plow for too long. It was on behalf of liberty that we wanted to maintain an agricultural Quebec, and this was, up until recently, designed to hinder progress. I therefore say that rights only have a meaning to the extent that they correspond with the needs of the labour movement and social progress in general. In all other cases, they are only a kind of expedient.

With regard to Bill C-186, I believe that there is no short cut to be taken. You might say that in Quebec, the CBC employees have just voted in the proportion of 63 per cent in favor of CUPE. But I say there is no short cut and the problem that we are trying to avoid will perhaps create bigger problems. This is what is important and should be noted. We must prevent other problems that we do not even suspect from rising to the surface. This is what we have to prevent. This will bring about other complexities that we do not foresee at the present time but which would, in this way, result from a step backwards, even if it were done to satisfy a large sector of the population or a labour organization which, in general, I respect. Because of this, I lose a little of that respect. In my opinion, and in the opinion of the Montreal Labour Council,

there is no other road but the way of principle. We must fight against expedients. This is an expedient which serves the CNTU. It is an expedient which serves neither the people nor the workers in general but which has perhaps some chance of increasing the number of trade union members, and which, in the final analysis, even if the CNTU were to win its point, would not, I am convinced, serve in the long run even the interests of the CNTU as a central labour body.

For all the reasons I have just listed, I am opposed and I remain opposed to the passage of Bill C-186. I think it is a very important matter for the future of the country, particularly at this time, when in the construction industry, thousands are unemployed. They are seeking a scapegoat. We will have to be very, very firm and not lose sight of our objective. We need a compass to bring us directly to the path of progress and to keep us there. That is all I have to say, Mr. Chairman.

● 1600

The Chairman: Thank you, Mr. Gagnon.

[English]

I have Mr. Régimbal's name as the first one on my list, but he is not here. The list of members who indicated they have questions to ask is as follows: Mr. Munro, Mr. Boulanger, Mr. Ormiston, Mr. Clermont, Mr. Guay, Mr. Lewis and Mr. Émard.

Mr. Munro, you may proceed with your questioning.

Mr. Munro: Mr. Chairman, I wish to address this question to Mr. Laberge. I am looking at page 24 of your brief where you state, "C-186 is a bastard text..." and then further down you say:

Hence the unbiased manner in which we combat it, in the name of common sense, the good name of our parliamentary institutions...

Mr. Laberge, do you consider the contents of this brief were prepared in an unbiased manner?

Mr. Laberge: In an unbiased manner?

Mr. Munro: Yes.

Mr. Laberge: I would hope not.

Mr. Munro: You are the one who made the statement.

Mr. Laberge: I would hope that our brief is clear enough so that all you gentlemen will understand exactly where we stand.

Mr. Munro: I think we know where you stand all right, but you have indicated it was in an "unbiased manner." I just wondered how you could have arrived at that conclusion.

Mr. Laberge: Let me try and find it.

Mr. Munro: It is on page 24, half way down.

[Translation]

Mr. Laberge: Does it correspond to the some page numbers in French?

[English]

I must admit that the English and French texts are not exactly the same.

[Translation]

Mr. Lewis: You use the word "impartiality"...

Mr. Laberge: Yes. These words can perhaps mean the same thing.

Mr. Lewis: They mean approximately the same thing, Mr. Laberge.

[English]

Mr. Munro: At any rate I assume that you and your Federation are the authors of the brief, Mr. Laberge, and that is the English translation.

Mr. Laberge: You need an explanation, and I think I ought to attempt to give you one.

We do not think we are biased in this connection because as far back as I can remember we have been fighting on the side of the CNTU, not against it, for the same principles that we are defending in this brief. We said this morning, and I repeat, you have exactly the same thing happening in Quebec as is happening with the Canada Labour Relations Board. The Quebec Labour Relations Board refuses and has refused time and again to fragment a recognized bargaining unit, and time and again, with the CNTU right beside us, we have fought against the Union Nationale government and the Liberal government in order to preserve those principles. This is why I think this is so important.

Mr. Munro: Mr. Laberge, I am just going to refer to a few references in the brief. On page

3, the middle paragraph, the fourth last line you say:

We remain convinced that Bill C-186 is nothing but a political expedient, inspired at best by pure opportunism...

Then you go on in the last paragraph to say:

...the circumstances which surrounded its tabling in the Commons amount to a political scandal of the first water, a vast undertaking in electoral blackmail and patronage well designed to spur the highest interest...

At the top of page 4 you say:

They will find themselves examining the biggest moral fraud perpetrated against Canadian Parliament...

At the bottom of page 5 and on page 6, you say:

As for us, we can only see in this a political expedient aimed at appeasing a handful of separation-minded activists at Radio-Canada...

In the last few lines of the second paragraph on page 9 you say—and you are presumably talking about the CNTU:

...as witness its incursions in Ontario, but from the fact that its recruiting drives in federal institutions were led by a few separatist activists, and based on exclusively nationalist propaganda.

On page 12, the beginning of the first paragraph, you say:

In the face of an argument so feeble and manifestly erroneous, not to say dishonest, the Minister of Manpower and Immigration—whom we hold to be the "illegitimate father" of Bill C-186...

On the next page you refer to "the officious Minister of Labour".

In the bottom paragraph on page 14 you make personal references to Mr. Marchand:

It is obvious that the career and labour union experience of Mr. Marchand made him a better prospect for Minister of Labour than Minister of Manpower and Immigration, and that it was to spare him from involvement in conflicts of interest that he was given a made-to-measure new department.

You refer to his "exploiting his title as leader of the Quebec caucus", and then you say:

This is our authority for stating here that in this not particularly shining affair

the Quebec spokesmen in the Cabinet is trying to import to Ottawa the morals of the village patron and of political interference in administrative bodies of the state...

Then to top off this diatribe of personal abuse and insult, not only to the Minister of Manpower and Immigration but to the government as a whole, you manage to insult the intelligence of every member of Parliament. I refer to page 28, the last paragraph.

We can understand that a certain number of members of the House, Quebecers especially, and that a portion, and apparently a majority one, of the Cabinet might at some point have been carried away by the thesis expressed in Bill C-186. First, they were subjected to what probably was a brainwashing without precedent in the history of the Canadian parliament—to a propaganda that played simultaneously on a pair of sensitive strings: everyone's very legitimate desire for freedom, and a certain feeling of guilt toward French Canadians and Quebec.

Would you say that these irresponsible statements indicate that you are presenting your side of this case in an unbiased manner, Mr. Laberge?

• 1605

Mr. Laberge: To start with, you were absent this morning...

Mr. Munro: And I heard you were equally eloquent this morning.

Mr. Laberge: No, but when another member of Parliament, who received the same suggested question, asked it this morning...

Mr. Gray: Just a minute please, Mr. Chairman. I think I would like to raise a question of privilege on behalf of the members of the Committee generally.

I just understood Mr. Laberge to make reference to suggested questions and so on. If a member is willing to take responsibility for what he asks, I do not think it is open to Mr. Laberge or anybody here to make suggestions of that nature. I presume Mr. Laberge met with his colleagues, the Quebec Federation of Labour, in the preparation of this brief and none of us are suggesting as yet that the brief does not represent the considered view of Mr. Laberge but merely things that were suggested to him by colleagues.

Mr. Laberge: Is that a question of privilege, Mr. Chairman?

The Chairman: Just a moment. We are into an area here which is, to say the least, inflammable. We have a bill before us. I do not want to curtail questioning but I would appeal to the members and also to the witnesses to direct themselves as closely as possible to the content of the brief and more particularly to the Bill and we will try to avoid any indiscriminate remarks.

Mr. Laberge: I will try to do that. I did not think that the members of this Committee were so sensitive. I would not feel insulted if somebody were to suggest that I had met with some of my colleagues and they had suggested to me that I emphasize certain points rather than others.

Mr. Mackasey: I have come across the word "trickery" in your brief.

An hon. Member: That is unparliamentary, Mr. Mackasey.

Mr. Laberge: We will come to that. May I say, Mr. Chairman, in attempting to answer the series of remarks that obviously Mr. Munro believes are uncalled for, that we do realize, as I said this morning, that it is a very tough and very critical brief but it is not as tough as the original version was. We watered it down quite a bit, and if you think that we have been hitting at one particular member of the House...

An hon. Member: Let us have the original version.

Mr. Laberge: ...especially...

[Translation]

Mr. Grégoire: May we have the original copy, the first copy?

[English]

Mr. Laberge: ... one particular member of the House, there are good reasons for that.

Mr. Lewis: Mr. Chairman, on a point of order, may I say that I have known Mr. Laberge a long time and I really do not think that we are going to get very far with this kind of exchange about ministers or members of Parliament. If Mr. Laberge and other members want to carry it on, I will join in because I just do not want everybody else to have the fun.

An hon. Member: On the point of order...

Another hon. Member: Mr. Chairman, may I speak to the point of order?

The Chairman: Order, order.

• 1610

Mr. Lewis: I am just drawing your attention to the fact that we are not going to get anywhere. If you want to have that kind of Donnybrook, we will have it.

The Chairman: Just a moment. That point was made this morning as well. It really is up to the members of the Committee how far they want to pursue this. I am not referring to your particular line of questioning but I would hope that without too lengthy an exchange of this character we can get into the substance of the bill.

Mr. Régimbal: Mr. Chairman, I wonder if I might have a word on this point. This matter was gone into this morning, using almost exactly the same terms and references, and a lengthy answer was given. I do not think there is a need for repetition.

The Chairman: It may be that we do not need repetition. That may be your point of view but the point is that the history of committees of this House indicates that repetition is not without precedent.

Mr. Laberge: Mr. Chairman, if I may be permitted, I think that Mr. Munro's question is in line. After all, our brief does have quite a few references to the Hon. Minister of Labour and the Hon. Minister of Manpower and Immigration, and I think this is quite in order. Again I want to say that if you believe that our brief is critical it is because we intended it to be that way. Now let me try...

Mr. Munro: Let me just clarify that, though, Mr. Laberge. The excerpts which I took out of your brief I do not consider critical. I consider them totally and completely irresponsible. I think that they detract from what else is in your brief that may be valid criticism, and I am wondering whether these personal remarks, which accomplish nothing, are a reflection of a poor argument and lack of faith in your own case.

Some hon. Members: Hear, hear.

Mr. Laberge: Are you going to give me the privilege of trying to answer without being interrupted again, or are you going to simply ask the question and prevent me from answering it?

27995—3½

The Chairman: Go ahead and answer it.

Mr. Laberge: All right. As to the statements that you call irresponsible, I will ask you what you would call it yourself if you were to catch a minister saying in the House that the Board is overworked, when the survey showed that they had worked 3.7 days a month, and that this is the reason they need a second vice-president and an established panel.

The Minister of Manpower and Immigration stated in the House that he has never seen CLC representatives voting against their affiliates. This is false; it is untrue. We have made a survey and we have quite a few cases where this has happened, where they have voted against affiliates of the CLC.

I will go a bit further. If you talk of irresponsible statements, these are the kinds of irresponsible statements that you ought to be referring to. When we met with the Minister of Manpower and Immigration in Quebec City, and three of the Liberal M.P.s from Quebec were present at that meeting, Mr. Marchand stated that the panels were requested by the Canada Labour Relations Board itself.

Well, this is a complete lie. I checked with the Board and they have never asked that, but Mr. Marchand stated that in front of at least 3,000 officers of our Quebec Labour Council and they were looking at us as if we had been lying to them. He stated this in his prestige as a minister in the Liberal government and as the leader of the Quebec caucus; and if you do not think we get peeved with such foul statements, then you have a second thought coming.

Mr. Munro: In terms...

[Translation]

Mr. Laberge: I was not able to check. I have just done so.

[English]

Mr. Munro: In terms of your answer, Mr. Laberge, and the comments in the brief, I can only come to the conclusion that personal animosity between yourself and Mr. Marchand is a red herring beclouding the whole issue in your own mind.

Mr. Laberge: Mr. Marchand is a good friend of mine.

Mr. Munro: I would hate to be one of your enemies, I can tell you that.

Mr. Laberge: I did not say that I was a good friend of his.

Mr. Munro: I have only one or two more questions, Mr. Chairman. As to the make-up of the Canada Labour Relations Board, you of course are fully aware that the type of appointments that are made there are not public interest appointments; they are not in that sense judicial appointments that have no interests. They are appointments with recognized interests at the time they are made. They are a representative board and they represent the interests from whence they came. If they are labour representatives, they represent labour; if they are management representatives, they represent management, and so on. You are aware of this?

Mr. Laberge: No, I am very sorry I disagree. As a matter of fact, they have to be sworn in as members of the Board, and when they are sworn in they have to protect the interests of the people who appear before that Board. This is what they have been doing.

• 1615

Again this is the kind of irresponsible statements that you ought to refer to. Here we have members of the Board who have been recognized not only in Canada but throughout the North American continent and even by the ILO as being members of the greatest integrity, and you have made them suffer a great deal by the kind of statements that have been made in the House.

Mr. Munro: Mr. Chairman, through you to Mr. Laberge. If these appointments were of the public interest type or if they were judicial appointments, I would say that remarks like mine would be a reflection on the integrity of the people filling them. What I am saying—and they fully realize it and I hope everyone else realizes it—is that they are representative appointments and because of their nature, remarks such as I have made are in no way a reflection on the capabilities of the individuals or on the manner in which they discharge their responsibilities.

Mr. Laberge: You can not divorce the two. Because an M.P. comes from a working class family it does not necessarily follow that he cannot represent the small merchants and the small industrialists as well. If that were the case, then there are a lot of M.P.s who should not be here, because they are supposed to represent the interests of all the people.

Mr. Munro: Mr. Laberge, in my humble submission, I think that you fail to understand the distinction between different types of boards and the manner in which they are appointed. I refer to another item in your brief on page 3, the second paragraph, which I found interesting. You state:

In fact, we are so keen about this principle that we do not set aside the eventuality of an "international" bargaining unit, or of an "international" union of broadcasting employees, within the hypothesis of a Quebec secession.

Would you tell me what you mean by that paragraph?

Mr. Laberge: I think perhaps you are aware that there are people in Quebec who are agitating for Quebec to secede from the rest of the country; so we are saying that we believe so much in having all of the workers of one employer, all of the workers who have the same interests, the same problems and so forth, that even if we were to secede we would form an international union and represent both. Perhaps you fail to understand the humour in this, but on the other hand we are so keen on this that we want the natural aspirations of workers to be part of the largest possible bargaining unit, the most powerful bargaining unit possible. If you will permit me to go a bit further, I might mention industries not under the federal jurisdiction; the tobacco industry, the packinghouse industry, the automobile industry, where the workers have fought hard and long—sometimes they have had to strike—in order to be able to bargain on a national basis. It is because they are dealing with one employer. This is how we have been successful in getting the same wages, the same conditions, for the people across this country, even in industries that are not under federal jurisdiction, and there are quite a few of them, quite a few.

Mr. Munro: Mr. Laberge, have you and your union ever co-operated with the CNTU in Quebec, for instance, to obtain certain common objectives?

Mr. Laberge: A great many times. As a matter of fact, as recently as in the last 12 months or so we have presented a joint brief against separatism. Mr. Grégoire knows this. We have made joint representation on the Quebec pension plan, on medicare, on freedom of association, on a great many points, and at the present time we are in discussions with them to try and make a "front com-

mun", a joint front, on the question of negotiations in the public service, for hospital employees and so forth. So if you think we are always against the CNTU you are wrong. We are against one of their ideas on this one occasion because they are going against all of the things that they have fought for. We have jointly combatted Bill 54 to give monopolistic representation to a union that represented the majority of the workers whether or not one individual or a minority group of workers did not want that union. Both the CNTU and the Quebec Federation of Labour were successful in influencing the provincial government to amend the laws so that we would have a strictly monopolistic representation.

• 1620

Mr. Munro: Then that seems to be an outstanding example of where the CNTU can co-operate with unions affiliated with the CLC to achieve certain common objectives. Now I put this question to you: suppose there was one bargaining unit of production workers with the CBC in Montreal and suppose that the CNTU obtained certification to represent those production workers and another union affiliated with the CLC represented the production workers elsewhere in Canada, what is there to prevent the two unions coming to some type of reasonable agreement along the lines you have just outlined and in common to bargain for the best working conditions for their workers?

Mr. Laberge: This also has been attempted. As a matter of fact, there were joint negotiations having to do with the building industry in Montreal the last time around, which is some two years ago, and there was the most brutal, most violent, meanest strike ever staged in Canada. Mind you, the CNTU had demanded eighty cents an hour wage increase. We called them and suggested that we had a common problem in those negotiations because we felt we could get more than that. We convinced them, they came in with us, they withdrew their written submission to the building industry—this is in writing and I can get you a copy of it—and we went ahead and asked for \$1.50 an hour wage increase. The result was \$1.20 an hour wage increase, plus another 15 to 17 cents for some special trades, plus social security and a lot of other things. This was a bonanza, and there is no question about it. As a matter of fact, we felt that this was the greatest negotiation, so great that we would have a heck of a time convinc-

ing our members that we could not repeat those miracles in future negotiations. The CNTU said at that time—and we had a joint meeting and they were well organized—"To hell with them, we are going to turn around and strike and you are going to support us". The ratio at that time was about 4 to 1 and we refused. We said that we were very sorry, that that was not the way we were going to proceed, that we had to meet with the members of each one of our separate unions and take a secret ballot on these offers, which were the most generous that ever had been given in Canada. But they did strike. We had to force our way on the job, and this could have destroyed Expo and everything else. Now all of those in the building industry said, "No more common front, no more joint negotiations, we are finished; if it is dog eat dog then we will starve and see what happens". Now this would happen, especially if you were in a competitive field. I am not saying that the CNTU would be worse than we would be in the same position but a rival organization having only a group of employees belonging to an employer would certainly want to show itself as being more militant, more capable of doing a better job for the workers than the other union, so you would have the two unions stalling, stalling, and stalling, like you have in the textile industry, and finally one of the two deciding to sign an agreement and the other one would go on strike to try to get a few more cents. That is why there was a strike in Dominion Textiles a year and a half ago. The end result was two cents. Of course I do not think they will swing us over for two cents more with the threat of a six or seven months strike. But this would happen every time and this is why it is not workable—unless you had some kind of superstructure, like you have in the CLC, that would prevent such things from happening. You have different unions affiliated with the CLC in the same field but one union cannot do that because they could be sanctioned by the CLC if they attempted to take members away from another union, they could be expelled and so on. Unless you had something like that it would be impossible to have joint negotiation and to present a common front in industry where one union represents a group of workers and a rival union represents another group.

• 1625

Mr. Munro: You know as well as I do that all sorts of unions that are affiliates of the CLC, have disputes with each other.

Mr. Laberge: Yes, I realize that. But what I mean is that no union representing a majority would want to co-operate with another union representing a minority if they gave them a chance to grab the majority.

Mr. Munro: Your reply would seem to indicate, Mr. Laberge, that you are so pessimistic about two unions being able to come to any type of agreement, especially in the context of negotiations, you would prefer some type of legislation that would coerce unity upon the trade union movement. I further suggest that that is why you are in favour of the Canada Labour Relations Board the way it is and the continued interpretation that they have been giving to national bargaining units, because the effect of those interpretations is to prevent any other union that may be organized on a regional basis from breaking in—and you know very well that that is the effect.

Mr. Laberge: I am not being pessimistic, this is based on experience. I have been a member of the Unity Committee of the CLC and the CNTU for the last 10 years and we have never had a meeting in the last five years. A meeting was suggested about a year and a half ago, was finally cancelled at the last minute, and there has been no talk about that committee meeting again. I do not think I am being pessimistic, I think I am only being realistic, and I think there is a great deal of difference between the two words. As to your other statement, do you mean to tell me that all of a sudden the Liberal Government, which has established the Canada Labour Relations Board and has made it function the way it has been through the years, has suddenly recognized they have made a great many mistakes, that they have been frustrating French Canadians and have been unjust to French Canadian workers? Let me tell you that until that dispute at the CBC the CNTU representative himself on that Canada Labour Relations Board never thought so many great injustices were committed, as he said in writing, in respect of the decisions rendered by the Board.

• 1620

All of a sudden you realize you have made a great big mistake in making the Canada Labour Relations Board the way it is. You formed that commission of experts and voted a budget for it of a million and a half dollars to make a total survey of the industrial rela-

tions field in Canada. Let me say to you that if you had waited for their report and, because of what it contained, you decided to change the formation of the Canada Labour Relations Board and some details in the law, we would not have been before you with a brief like this. We would have said that after all, the government has very seriously considered this problem, they had a commission of experts and they reported. We may not agree with all of the things that they suggest, but on the other hand we would not be able to say to you that this is a political expedient because you would have had a commission of experts, you would have had the report, you would have had a total study made, and you would have based your amendments on that, which is not the case at the moment.

Mr. Munro: No. I just have one last question. Mr. Laberge, I am suggesting that in an enterprise such as the CBC, which deals in the cultural realm and with the dissemination of information throughout Canada, and in the context of the French-speaking and English-speaking conflict, if you like, going on in Canada today which is reflected in the posture taken by many of the political parties when they advocate that different legislative remedies will have to be applied to deal with the French question—the French fact—there may be some justification for making one of the criteria that is used to determine the appropriateness of a bargaining unit based on cultural and linguistic qualities, especially when you are dealing with an employer such as the CBC. That is all I am suggesting.

Mr. Laberge: Let me tell you that we are also French Canadian workers. As a matter of fact, there are a lot of men in the CLC who call me all kinds of names in addition to a French Canadian because they sometimes feel that perhaps I am acting like Mr. Grégoire.

An hon. Member: God help you.

Mr. Laberge: I pray every night.

Do you know what kind of a bargaining unit we are talking about? Do you know who the workers are who compose that bargaining unit? Do you know the cultural aspect of it? Do you know that the men who compose the bargaining unit are the carpenters and the painters and the cameramen? Could you tell me what difference there is in a painter using a brush or a carpenter putting a nail in a board for a French decor rather than for an English decor? What is the difference? Let me try and go a bit further. Do you know that

when we are being interviewed by the CBC at the moment—today, as a matter of fact—the film appears on both networks, the French and the English, and most of the time there are two interpreters or two reporters, but on every occasion there is only one cameraman. He takes the film for both the French and the English networks and what difference does it make?

Mr. Munro: Let me tell you the difference.

Mr. Laberge: All right, tell me.

Mr. Munro: I think many people are prepared to recognize the expanded role of the trade unions. No longer are they strictly limited to negotiations for better working conditions of workers. They now take part in political activities and all sorts of social welfare activities to better the community at large and thus cultural activity is also involved.

Mr. Laberge: I agree.

Mr. Munro: Do you repudiate that principle?

Mr. Laberge: No, not at all. As a matter of fact, I was...

Mr. Munro: Perhaps these French Canadian carpenters of whom you spoke do have interests that are quite divergent from English-speaking carpenters.

Mr. Laberge: Yes, I certainly agree with that, but would you agree that if there is a linguistic or a cultural problem that as a French Canadian I should listen more to what the English people have got to say? Let me tell you that the Quebec Federation of Labour is the largest central labour body representing the majority of French Canadian workers in the Province of Quebec.

Mr. Munro: I do not argue with that.

Mr. Laberge: All right. The CNTU represents one-third of the organized workers in Quebec and perhaps this is why you thought our statement was insulting, but we feel that some MPs are perhaps being misled into believing that the position taken by the CNTU was the position taken by all French Canadian workers. This is not so, and this is why we are telling you that we represent French Canadian workers, even more so than the CNTU. Would you not agree with me that on three different occasions the Quebec Federation of Labour in co-operation with the

new syndicate we have formed—the Canadian Television Union—were successful in signing up a majority of the workers—the ones you are talking about—at the CBC in Quebec and in the rest of the country? You might also like to know that we have been successful on two different occasions in signing up a majority of the same workers with CUPE, the Canadian Union of Public Employees. You might also be interested to know that while the CNTU claimed to have signed 426 workers among those employees in Quebec, the Canada Labour Relations Board accepted 481 of our workers. We had signed over 500 of them but some were turned down for various reasons.

• 1635

Mr. Munro: There is one thing that I find disturbing. I think you would agree that there are many unions in the Quebec Federation of Labour, all of whom I understand are affiliated with the CLC.

Mr. Laberge: Yes.

Mr. Munro: I would suggest that some of those unions are being serviced by international representatives who are not appointed by the unions themselves in the Province of Quebec.

Mr. Laberge: That is not so. I am very sorry, but I must tell you that this was perhaps true quite a few years ago but, as a matter of fact, the reason the Quebec Federation of Labour supported the CBC employees against IATSE is because IATSE did not have a representative in Quebec. That is why we were against IATSE. We made no bones about it, we said it publicly and we supported the creation of a new union. But most unions, whether they are the steelworkers, the pulp and sulphite workers, the IBEW or the Canadian Union of Public Employees, now recognize Quebec as a district and they have a man responsible solely for Quebec. All our union representatives in Quebec today—I do not want to mislead you either—with perhaps two exceptions are French Canadians or at least bilingual.

Mr. Munro: Are you aware of Mr. Picard?

Mr. Laberge: Oh, of course, he has been a good friend of ours for years.

Mr. Munro: All right. I will give you an example of what it is that worries me. Mr. Picard was appointed by the United Steelworkers international office in the United

States to come to Canada to form a tribunal to judge the discipline or lack of discipline of certain Canadian trade unionists and to impose punitive measures on them. Do you consider that...

Mr. Laberge: Mr. Picard?

Mr. Munro: Yes.

Mr. Laberge: Gerard Picard?

Mr. Munro: Yes.

Mr. Laberge: Of the CNTU?

Mr. Munro: No, no. I am speaking of Mr. Picard of the United Steelworkers in Quebec.

Mr. Laberge: I do not know of any Mr. Picard who works for the United Steelworkers. Let me assure you that I know all of them and there is no Mr. Picard who works for the United Steelworkers in Quebec.

Mr. Munro: I will double check the name, but...

Mr. Laberge: Yes, please.

Mr. Munro: ...I know that this occurred. I know a French Canadian trade unionist was appointed by the international office abroad to come into Canada to judge the discipline or lack of discipline of certain Canadian workers. If that were so, would you consider that an intrusion into Canadian sovereignty?

Mr. Laberge: You are damned right. We probably would kick him across the border.

Mr. Munro: That is all, Mr. Chairman.

Mr. Laberge: Let me say just a few more words because you did refer specifically to the steelworkers. You referred to the worst union possible because the steelworkers have a Quebec district and the Quebec directorate is elected by all of the members of the United Steelworkers of America in Quebec. As a matter of fact, the present director—I do not think this is a secret so I might as well say it—of the United Steelworkers of America in Quebec is a man who was not supported by the administration of the steelworkers but was elected by the members.

Mr. Boulanger: Just to complete the record, could you give us the two exceptions which you were going to mention?

Mr. Laberge: Yes, in the clothing industry there are unions which still have representatives who are not bilingual even though they

have a sufficiently large staff which includes many French Canadians and bilingual people. I think the clothing industry is the one place where some of the representatives are not bilingual, but they are becoming more scarce every minute.

• 1640

[Translation]

Mr. Boulanger: Mr. Chairman. Mr. Laberge, I said this morning that you should be careful that your summary was not longer than the brief itself, but I also see that the answers to the questions are very long. I believe we are losing a great deal of time but it is necessary.

Mr. Laberge: I will try to be briefer.

Mr. Boulanger: I am not criticizing you. I will try to do the same thing in my questions.

To follow up the opinions that Mr. Munro expressed a little while ago with regard to your brief, I would like to talk it over quietly, man to man. We come from the same little school and we should be able to do so very easily.

You speak of the merits of Bill C-186 and you say that Mr. Nicholson, whom we know and who has the reputation of being a man of integrity, is "guilty". This sounds even worse in the English version:

Do you not think that it might have been more polite and more courteous to say that you were in disagreement with him? This is where you provoke the Committee...

Mr. Laberge: No. He is giving erroneous information. I cannot say that I am not in agreement with him. He gave misinformation. He says that the Labour Board is working too hard, that it has been overburdened with requests, and that because of this, we must increase its staff. What do you want me to say at this particular point. The statistics which he had available were published. They were taken from his department; they were taken from Mr. Nicholson's office. He should have examined them before making his statement in the House.

Mr. Boulanger: You are speaking of statements or arguments which might be deliberately used to mislead. Call it what you want. This morning you were saying that we should perhaps have waited for the Woods report.

Mr. Laberge: I did not say it exactly in that way.

Mr. Boulanger: No? Well, then, you spoke of expenditures...

An hon. Member: Your microphone is not working.

Mr. Laberge: I did not touch anything, but there may have been sabotage! There we go. Good! Thank you.

Mr. Boulanger: You spoke of the Woods Commission this morning. You alluded to the fact that we would be spending \$1½ million. Then, you made some favourable comments with regard to those who have been chosen to be part of the Committee. Need I say that they are likeable people. But you overlooked, and this is what I would like to make you see, the fact that, a person can make mistakes without being dishonest. You forgot to say this. You said that we should have waited for the publication of the report. You know very well that the Woods report does not involve the study of one problem only. You know very well that there are about 60 cases before the commission, if not none, to be settled.

Mr. Laberge: Fifty.

Yes, fifty. I would even say that there might be sixty.

Mr. Boulanger: At least I cannot accuse you of misleading me at this point. You could have mentioned this. I say this to show you the difference there is between a brief which is presented with objectivity and one which is not.

• 1645

I am going to ask you a direct question. I know you will answer as you should, Mr. Laberge. Do you mean to say that the work of the House or of the committees should stop each time that a Commission is appointed to make a report on something?

Mr. Laberge: This is what I said this morning. I know that you are fair enough, so if I repeat what I said in the same way I said it this morning, you will agree.

I said that the task force had been directed to consider the whole context of the laws on labor relations in Canada. Do you agree with this?

So when you say that I have not said everything, by which you mean that this was not only this aspect this is not complete I said it several times. I said they were directed to consider the entire context of legislation concerning industrial relations. If you will allow

me a suggestion, I think this is how it should have operated. Is this aspect of the CLRB more urgent than any other? Then, there is nothing which prevents you from telling the Woods Commission, "Gentlemen, would you please make a survey on this particular point and then give us a preliminary report."

This is done every day when commissions are formed. Why did you not do so in this case?

Mr. Boulanger: It is not an every day happening to ask a commission for a detailed report. We already have a summary report that arrived today.

I do not want to take up too much time either. I was reading an article recently which dealt with autonomy, etc... During your last convention in Winnipeg last summer, at one point we say in the newspapers, and moreover this is what you did. You spoke of "relations between the Canadian Labour..." It is not you but the newspaper in Winnipeg.

At one point you said, and this was published in the newspapers, that:

[English]

The relations between the Canadian Labour Congress and the Quebec Federation of Labour were near to the breaking point yesterday as both appeared to be gearing for an open fight until they reform.

[Translation]

Following this, you spoke of:

[English]

The main issue of the QFL came in for a greater degree of independence and autonomy.

[Translation]

I would like to ask you whether you were defending at that time the principle of autonomy and independence with regard to...

Mr. Laberge: First of all, Mr. Boulanger, let me tell you that you are not reading from my statements, you are reading an article that appeared in the *Financial Post*.

Mr. Boulanger: This is why...

Mr. Laberge: Let me have a minute to answer you. I read it too. These are the comments of a newspaperman who said that at the bi-annual meeting of the CLC, there would probably be opposition between the

QFL and the CLC. Now if you were asking me a question, not based on the comments of a newspaperman, but based on the things that we said or that we did, then I think it would be much easier for me to reply.

Ask me if it is true that we are demanding more autonomy within the CLC and I will answer that it is true. Or ask me if it is true that the Federation wants more powers, and I will say that it is of course true. Furthermore, we did not act secretly, we acted publicly. However, gentlemen, allow me to say that this is the perfect example of labour democracy.

• 1700

We have conventions, where delegates discuss resolutions. Then we bring the product of these discussions to a higher organization, if there is one, and we discuss it there. There has never been any question of the QFL separating from the CLC and there never will be. There is no question of this. However, the QFL is asking the CLC for the position that it thinks it should occupy, not outside the CLC but within it.

Mr. Boulanger: Fine, this answers my question.

Mr. Gagnon when your name was mentioned a little while ago, you were stated to be a member of the National Executive Committee of the Montreal Labour Council, and then it was said later that you were a member of the Political Action Committee.

I am going to ask you a question, because I will address my last question to Mr. Laberge. I am referring to the document *Le Syndicat*. What do you understand by political action?

Mr. Gagnon: By "Political Action" as in the document that you read, we mean direct action and not partisan action linked to any political party. It is a question of direct action on the part of trade union members on every question which concerns them and which interests them. For instance, last Sunday there was a march on housing, not on behalf of any political party, but on behalf of all those who were there: there were representatives from popular committees, parent committees and from various locals.

Mr. Laberge: No political parties were invited?

Mr. Gagnon: No political party was invited, none whatever.

Mr. Laberge: No representative of any political party was invited.

Mr. Boulanger: This answers my question. In view of the fact that the Committee is composed of representatives from all the parties of the House of Commons, I will ask a very direct question. In fact Mr. Pepin and Mr. Thibaudeau were asked this question the day before yesterday. Considering everything that is going on these days—I am thinking of Mr. Laberge, who has actively involved himself in politics by favoring socialism and asks others to do so too—do you agree in principle with the method that he employs to favor trade unionism and to help you?

Mr. Gagnon: Mr. Laberge is the representative of the Quebec Federation of Labour.

Mr. Boulanger: I could have asked Mr. Laberge directly, but in view of the fact you belong to the political action movement, I have asked you.

Mr. Gagnon: That is all right.

Mr. Boulanger: I wanted to know your opinion before asking Mr. Laberge.

Mr. Gagnon: Ask him the question.

Mr. Laberge: If you are asking me, it seems to bother you quite a bit...

Mr. Boulanger: This bothers me because...

Mr. Laberge: A union representative must have political convictions.

Mr. Boulanger: I did not say "a representative", I said "a president". This is not the same thing.

Mr. Laberge: As President of the QFL, I can neither be a candidate nor be an official of any political party.

Mr. Boulanger: Not according to the new Act.

Mr. Laberge: According to our own statutes, those of the QFL, neither the president nor the general secretary has the right to be an official of any political party or to be a candidate for any political party. If at some time, I wanted to be a candidate, I would have to do what Mr. Marchand did: resign from my position and then offer myself as candidate.

Mr. Guay: In two years.

• 1705

Mr. Laberge: Yes, but if it is good for one party, I do not see why it would not be good for the other.

[English]

The Chairman: Gentlemen, I appeal to you again. The Bill before us is Bill C-186—if anyone has lost sight of that fact—which has a very specific content.

Mr. Boulanger: That is exactly my point. The main argument brought up by Mr. Munro was what I was going to do and I will scratch five of my questions because Mr. Munro has asked them. Nevertheless I want to prove that that memoir has been so strongly put as a political gag against Bill C-186; I want to prove that they have not been exactly what they should have been in their memoir, because they have also made it a political issue. If it is good to say that Mr. Marchand makes a political issue of it, which I don't believe, will you not agree, Mr. Laberge, that it is right that you make it a political issue as well?

Mr. Laberge: First of all let me say that I am not here to represent myself; I represent over 300,000 Quebec workers who belong to unions affiliated with the CLC and with the Quebec Federation of Labour. Bill C-186 the arguments for and against it, together with the brief we presented, have been thoroughly discussed with our 25 labour councils, the consultative committee of the Quebec Federation of Labour composed of all full-time workers in all of the unions affiliated with the Quebec Federation, and the general council of the Quebec Federation of Labour. So, I am not here on my own behalf. I am here defending principles of trade unionists in Quebec, 80 to 85 per cent of whom happen to be French-speaking. I am here to defend principles for which we have fought throughout the years, principles which on occasion the CNTU helped us fight and principles that have been guiding all of our labour laws in each and every province across this country. This is our reason for being here. If you are attempting—and I hope you are not—to say that our brief is tough and mean because the Quebec Federation of Labour is backing the NDP, then I am very sorry that you think so small.

[Translation]

Mr. Boulanger: One moment, Mr. Laberge. Let us communicate clearly and honestly like

two men who want to understand each other. I want to prove that you were harsh in your brief and that you are antagonizing the Committee. To be very frank, supposing that you were a political defender of the present Liberal government, would you tell me that you would have come with the same brief, with the same words, the same arguments?

Mr. Laberge: Obviously, there might have been some words changed. But let me tell you that Robert Cliche, for whom I voted as the head of the NDP in Quebec, at one time spoke in favour of the CNTU during the CBC conflict. If you want a statement with regard to Robert Cliche, it is not any gentler than the one on Jean Marchand. Mr. Cliche was told to mind his own business, that he was speaking through his hat and that he did not know what the conflict was about. He was not treated any more gently than Mr. Marchand.

Mr. Grégoire: Does the QFL subscribe to a political party?

Mr. Laberge: The Federation? No.

Mr. Grégoire: Does the CLC subscribe to one?

Mr. Laberge: No. The CLC and the QFL support parties, but they are not members. There is a difference.

Mr. Grégoire: There is not one cent from any labour union...

Mr. Laberge: That is not the question you asked me, and I was going to give you a complete reply, because I think that is what you want to know. Mr. David Lewis was reproaching me at noon because there were not enough unions in Québec affiliated with the NDP. This proves that we have nothing to hide.

The delegates to the QFL convention passed a resolution supporting the New Democratic Party, however, all members and all affiliates are completely free to join or not if they wish. The resolution is a form of encouragement to support the New Democratic Party, but the members of affiliated unions are not obliged...

• 1710

[English]

Mr. Lewis: Mr. Chairman, on a point of order. I did not want to interrupt earlier in case hon. members might think that anyone had anything to hide. We are getting into a political discussion and I am getting darn

well annoyed at these irrelevant questions. It is none of Mr. Boulanger's business and it is none of Mr. Grégoire's business what the political connection is.

Mr. Grégoire: Yes, it is our business.

Mr. Lewis: I am prepared to discuss it on the political platform with them but in so far as this Bill is concerned it is none of their business.

An hon. Member: A point of order.

The Chairman: No, no, I do not think we will rule it as a point of order, otherwise we will have a procedural discussion. I think it is up to the members of the Committee to decide, within fairly broad limits, what sort of questions they want to ask. I think if Mr. Boulanger and Mr. Grégoire feel that this is in some way relevant, it is their prerogative as Members of Parliament and members of this Committee to ask those questions. I do not think it is up to Mr. Lewis or myself to rule in advance of the questioning that they do not have the right to proceed along those lines. However, I appeal to the Committee to exercise a little more restraint. We have a group of gentlemen waiting to present their briefs. I have Mr. Ormiston, Mr. Clermont, Mr. Guay, Mr. Lewis, Mr. Émard and Mr. Duquet who want to ask questions. I appeal to you to stick to the Bill—I cannot order you to confine yourselves to the Bill. I really do not think, Mr. Lewis, you brought up a legitimate point of order. I think my appeal is a reasonable one and I will try to be as lenient as possible, but really, as the Speaker once said, my patience is...

Mr. Munro: Mr. Chairman, I do not want to get involved in a procedural wrangle but I want to raise a point of order. If members of this Committee are presented with a brief which contains what they consider to be excessive and erroneous statements, I think they are entitled to go into the motivation behind them. That is what Mr. Boulanger is doing.

The Chairman: Yes, I know.

Mr. Munro: And on those grounds I do not think he is out of order.

The Chairman: No, I know, but it has been done and it probably will be done again. I am simply saying that it is important that we try to restrict this type of cross-examination.

Mr. Lewis: Mr. Chairman, I think you will notice that I did not interrupt Mr. Boulanger

because I understood that he was trying to get at the point that this brief was motivated by certain political biases. I interrupted only when questions were asked about other matters which did not relate to that point at all.

Mr. Grégoire: Mr. Chairman, on that point of order, I would say that my questions would have lead to other questions closely related to the brief.

The Chairman: Are you finished, Mr. Boulanger?

[Translation]

Mr. Boulanger: Mr. Chairman, before concluding, I would like to tell you, Mr. Laberge, that I did not ask the questions to embarrass you. You are intelligent enough to understand. But morally, I was afraid and I am still afraid, that perhaps you have not considered this Bill as objectively as you could have. However, knowing your integrity, since we have known each other since the days at City Hall, I simply want to say that you answered as I hoped you would and I am satisfied with your answers. Thank you.

[English]

Mr. Ormiston: Mr. Chairman, I had a chance to question Mr. Laberge this morning. I will be glad to defer to someone else in order to expedite the proceedings.

The Chairman: Do you have any further question, though?

Mr. Ormiston: Of Mr. Gagnon, not of Mr. Laberge.

The Chairman: It does not matter; they are both here and we will proceed. It might be an interesting change.

Mr. Ormiston: Mr. Gagnon, to get down to a bit of reasoning...

Mr. Gagnon: I would not say that; just a different approach probably.

Mr. Ormiston: I am sorry that some of the audience who are here this afternoon were not able to hear you this morning because I did think you tried to associate your brief with the Bill and I congratulate you for that. You devoted—I am not going to spend much time discussing this—a lot of your time to small unions, suggesting that they were in difficulty because of pressures, membership, and the various aspects which occur. Do you still think there is a place for the small

unions or do you think they will be gradually absorbed?

• 1715

Mr. Gagnon: I think they will be absorbed in the same way the small industries are absorbed by bigger industries. It is an historical development and if we do not do something about it we will pay for it.

Mr. Ormiston: Then you think this is a good idea?

Mr. Gagnon: What is a good idea?

Mr. Ormiston: That we form bigger, larger unions and do away with the small ones?

Mr. Gagnon: I feel there would be a difference for Seven-Up Bottling Co. or any others if they had a bigger union or negotiation. There is no doubt in my mind.

Mr. Ormiston: Do you feel there is pressure at the present time to promote this idea?

Mr. Gagnon: By the workers themselves.

Mr. Ormiston: Do you mean it is internal?

Mr. Gagnon: No, no...

[Translation]

I would prefer to speak in French. The workers themselves are gradually moving away from small bargaining units and from the fragmentation of workers. This is the historical development. And why are they moving away from this? Not because it has become the style, but because this unity beyond national barriers is an integral part of the needs of society, and primarily, of the workers themselves. This is what strengthens the labour movement and also what governs both the general interest of the population, as well as the interest of due paying members.

I spoke of the principle, it is true I did not speak of the Bill line by line; of the principle. I belong to a union for the electricians, local 585. According to the principle of the Bill, a given group, whether they be English-speaking or belong to any other language group, could leave the group and fragment their forces according to the language spoken, which would not serve the general interest. This is all I meant. Instead of advancing, we would be going backwards.

I also said—and I hold to it—that in a great many cases a step backwards in this regard might bring out the latent forces of petty nationalism. I have used the expression “pet-

ty nationalism” because there are still in Québec members of the FLQ who believe that the only way to liberate the French Canadians is to slap down English Canadians. I saw an example of this as recently as two days ago, on the 27th. There, trying to take the leadership of the Seven-Up strike, was Mario Bachand, a former member of the FLQ, who spent a few years in prison. That is your problem.

Are you going to open your door to these elements? There are people who have honest nationalistic aspirations and want to defend them. It is their right to do so and I am one of them. But I do not want to mix up the two problems.

[English]

Mr. Ormiston: I think you have explained your point, thank you.

The Chairman: Mr. Clermont.

[Translation]

Mr. Clermont: Mr. Chairman, recently I had the occasion, along with two of my colleagues in the House of Commons, the Member for Hull and the Member for Gatineau, to meet Mr. Laberge and a group of union representatives from Hull, Gatineau, Buckingham, Thurso and district. I have only two short questions to ask. The first is directed to Mr. Laberge.

Your group comprises employees of the City and District Savings Bank in Montreal; does it include all employees or just some of them?

Mr. Laberge: My group includes all the employees of the bank with the exception of the accountants. The Canada Labour Relations Board decided that accountants could not become union members, because they generally replace the manager.

However, we do believe that we will nevertheless be able to negotiate, if not a real collective agreement for them, at least some improvement in salaries and working conditions.

Mr. Clermont: My second and last question for the time being is this: I am referring to page 19 of the QFL brief, the French version, and I quote:

It is true that Bill C-186 changes nothing theoretically and that the workers remain free to stay on the road of union solidarity, but we say it is an incentive

for division just as the adoption of so-called "Right-to-Work" Laws in the United States.

What do these laws mean for the American worker, Mr. Laberge?

Mr. Laberge: The right-to-work law, which was adopted in several American states, in fact defended labour security and the closed shop, whether it was a perfect or imperfect union shop. This was an incentive for division. I think that history shows very clearly that in all states where these laws were passed, not only was there no progress for the working class, but they represented a step backwards. In fact, many of these states subsequently succeeded in removing these so-called labour laws from their statute books.

Bill C-186 does not settle anything, but it does tell the CLRB that it has always had the power to determine bargaining units and to fragment them. Though the Board has not done so, the Bill re-emphasizes that the Board has that power. In addition, a board of appeal will be placed over the CLRB to judge whether or not it was justified in determining bargaining unit.

In Canadian terms that we understand, this means that the Board has made mistakes and had better correct itself. It is political pressure and it cannot be called anything else.

Mr. Clermont: I will give the floor to others, Mr. Chairman.

The Chairman: Mr. Guay.

Mr. Guay: Mr. Laberge, a little while ago, the Woods Report was mentioned; you spoke about it several times. You say that all we had to do was to wait for the Woods Report. I do not quite agree with you. There were several reports asked for by the government, among which were the Woods Report, the B and B report, that of the Glassco Commission and a number of others. Does that mean that we can do nothing or that no law may be passed until the report comes out.

• 1720

Mr. Laberge: No, of course not. But on the other hand, when I said that such an important Commission as this had a budget of \$1½ million, I was not making a malicious remark; it was just to show you the importance you gave this group in allowing them to make a thorough study of these matters.

When I say that you should have waited, I am still relying somewhat on the statement

made by the Prime Minister on January 25, 1967, when he said to the independent Member, Mr. Allard, that until we had received the report from the task force, it would be premature to discuss modifications which might or might not be made in legislation on labour relations.

Mr. Guay: That answers my question. You say that you reject Bill C-186. I have already asked other representatives this same question: does this mean that the existing legislation is perfect?

Mr. Régimbal: No, it does mean, however, that the law should be amended.

Mr. Laberge: But not only one aspect of it. That is why it requires a thorough study, and that is why I think that we should rely much more on experts, even if we do not have to accept all their recommendations blindly. Certain recommendations will be acceptable and will nevertheless have some relation to each other. Whereas there, you are taking only one aspect, and a very trivial aspect of the IRDI Act. Through a bill which has not been passed yet, true, but which has been introduced all the same. You are now deciding to pass it.

I hope, gentlemen, that the fact that in a convention the Québec Federation of Labour has officially decided to endorse a political party will not deflect you to the extent that you will forget the principles that we have always defended.

Mr. Guay: Excuse me, on a point of order. I am trying not to deal with politics, but please answer my question: I would not have brought it up if I had been afraid of it.

Mr. Laberge: It is simply that I did not have a chance to talk to my friend, Mr. Boulanger.

Mr. Grégoire: I will give you the opportunity, Mr. Laberge.

Mr. Clermont: You can speak to him afterwards.

Mr. Guay: I am coming to my other question, Mr. Laberge, which is as follows: I am saying it again before you, I have said it in front of almost all the witnesses and I would like to have your comments: I was somewhat disappointed by the briefs. In the first place, we can say they are biased. However, this is not my main complaint. Mr. Ormiston, I think, alluded to this this morning. If you only knew how disappointed I am! I am sit-

ting on the Committee, and we have had a number of witnesses before us. I am telling you that the bill has not yet been passed. We have said that it can be amended but no central labour body has yet come in with concrete proposals. Those who came—and I think this is the real problem—wanted us to solve union conflicts. I do not want to be the referee for union conflicts. I would have preferred, Mr. Laberge, that the central labour bodies—representatives from others—will come and I hope they will do so, to propose amendments to Bill C-186. Let them say that it is no good when it treats such and such a point, but that they would like to have some other point included. There is nothing positive in this and I am disappointed.

Mr. Laberge: If you are disappointed, it is mainly because you have gone about the business backwards, if you will allow me to say so.

The federal government, like the government in Quebec, when it has a specific problem to solve, will ask us to give our opinions on such and such an aspect of the industrial labour code, not after introducing a bill, but before. But, you came in with the bill, and hence our reaction and it was a normal one:—"this affair is a political expedient. If they had really wanted to know what we thought, they would have established a committee and they would have asked us to submit briefs. They would have asked us questions and then, very objectively, we could have given our opinions." We cannot do this because we are faced with a bill which you could, of course, patch together, cut up, lengthen or amend. However, the fact remains that you came in with a bill which to our mind is disastrous and will create chaos in industrial relations. Do not forget, gentlemen, that even if the Bill does not settle anything, as we state in our brief—and this is an aspect which we criticise but in a concrete manner—we feel that it will encourage division among union members.

You would never have thought—and even at the present time you do not think that there are workers in a plant—if you will allow me I think it is important to discuss this.

Mr. Guay: Yes.

Mr. Laberge: If workers in a plant do not like the union that is there, should we protect their freedom and their right of association? Should we say that they have a right to be-

long to another union, in the same plant? You would not dare do this because you know that then and there it would produce chaos within the plant. What you would not do within a plant, you are now encouraging among employers who have plants in various provinces.

Mr. Guay: Mr. Laberge, this morning you said that the conflict or rather the crisis at the CBC has existed for several years. It seems to me you said for 2½ years.

Mr. Laberge: I said that it existed for three years.

Mr. Guay: You said that it had existed for 2½ years. Since that time, Mr. Laberge, and the CLC have had the opportunity of presenting briefs to the Cabinet. Also, I think that recommendations from bodies like the CLC, the steelworkers, the CNTU or other bodies which present briefs to the Cabinet are not overlooked. You have had the opportunity of presenting very positive and very practical recommendations and for this reason, I think, we have been obliged to ask for the Woods report in this state of affairs. We now have a problem that is dragging on indefinitely in Quebec, as you know. It concerns the CBC or more particularly, the definition of bargaining units. And that is why Bill C-186 is before us.

Mr. Laberge: There is no doubt that it is for this reason, as we mentioned in our brief. The bill was presented in order to meet the requests of a central labor congress which discovered, one day, that it was the victim of injustice on the part of the CLRB. However, for years it had dealt with the CLRB and had never before discovered that it was the victim of injustice. That is precisely the problem.

• 1725

Mr. Guay: Yes, but that is not exactly where the problem lies. I would like to say that you have had the opportunity of making proposals. You were aware that the conflict existed and you knew it would lead to something of this type.

Mr. Laberge: And we did something concrete. We said to ourselves that since IATSE no longer represented the workers because the workers no longer wanted it, we would give them the choice of another association. I might say by the way that the CNTU had the same opportunity as we did. It had only to organize the workers in Quebec and elsewhere. It had the same opportunity as we

had. The President of the CNTU went to meet dissenting groups in British Columbia just recently. He could have done the same thing where the CBC was concerned. Nothing prevented him from doing so. This is what we wanted to do. In fact we knew that once a bargaining unit had been determined, at the Canada Labour Relations Board, it would be almost impossible to fragment it unless there were very special conditions. Its members have always refused to do this. We knew that. That is why we organized across the whole country.

Mr. Guay: Exactly. According to you, Mr. Laberge, and this is my last question, what is the real labour problem, particularly in Quebec? Is it the relations existing between the CNTU and the CBC?

Mr. Laberge: Obviously the real problem is the rivalry between the two central labour bodies. There is no mistake about it.

Mr. Guay: . . . and . . .

Mr. Laberge: You will never settle this problem by legislation, particularly through legislation which appears whimsical to us. You never felt the need of proposing amendments before. You felt that there was something brewing, and then you appointed this task force.

Mr. Gray: Do you not think that the withdrawal of Bill C-186, or an amendment which would resemble the present Act more closely, would make it possible to avoid this interunion crisis? There is one thing that I am wondering about. Should some proposals not be made to us? We are not referees as I said a little while ago. I hope that the Woods report will see this problem and will recommend solutions because this is the real problem. It is not true that Bill C-186 is the problem.

Mr. Laberge: No, but Bill C-186 added fuel to the fire.

Mr. Guay: That is true. That is all, I thank you.

[English]

Mr. Lewis: Mr. Laberge, I want to ask you some questions that follow from Mr. Guay's questions, which were, if I may say so, deep and relevant questions. I understood you to say, and many others have said it too, that the problem with regard to the Canada Labour Relations Board arose primarily in rela-

tion to the production unit of the CBC. There was also the Angus Shops but it was the CBC in particular. Was the problem in the CBC one of the Quebec union versus the unions outside Quebec, or was it a problem of a bad union that did not give the workers in Toronto as well as in Montreal the service they require?

Mr. Laberge: As a matter of fact both groups, especially Toronto and Montreal, were against, yet both groups formed the Canadian Television Union. Both groups have joined, in majority, this Canadian Television Union. Both groups have signed in majority in CUPE. So both groups, Toronto and Montreal in particular and also across the country, but especially Toronto and Montreal, were against IATSE because they felt IATSE was not giving proper service.

Mr. Lewis: And is it true, as I understand it is, that particularly in Quebec IATSE was not giving the members of the bargaining unit in Quebec service in the French language?

Mr. Laberge: Yes, this is particularly true and, of course, it became a very hot question so far as the Quebec workers were concerned.

Mr. Lewis: You have brought this out several times but I think it is of essence, and I am trying to ask these questions in as unprovocative a way as I can. The impression has been created, not necessarily deliberately, that the CSN speaks for the French Canadian worker and that the rejection of the CNTU applications by the Canada Labour Relations Board was a rejection of a demand of the French Canadian worker.

Now, I do not agree with that and I never did, and I think it is important for you as President of the Quebec Federation of Labour to tell us whether there is any validity to that kind of approach, that the CNTU represented the French Canadian worker and that the rejection of its application is a rejection of the legitimate aspirations of the French Canadian worker, which is the impression that has been created. I think it is a totally false impression and I would like to hear what you have to say.

• 1730

Mr. Laberge: Yes, it is a false impression. As a matter of fact, the CNTU does not represent even one-third of the organized workers in Quebec. If you want to take down some figures I can give you some. At their

last convention they claimed to have 205,000 members. Some of those members are English-speaking, of course, and some of them are outside of Quebec—relatively few, but they have some outside of Quebec. The Quebec Federation of Labour represents between 325,000 and 350,000 workers. Eighty to eighty five per cent of those are French Canadians. This is a matter of fact. The Confederation of Catholic Teachers of Quebec represents 60,000 workers. Then there are the independent unions like the Teamsters and like the Seafarers, who were independent but now they will be back in the fold. They represent another 25,000 to perhaps 35,000 organized workers. So there are well over 6,000 organized workers in Quebec.

Mr. Lewis: You have 600,000.

Mr. Laberge: I am sorry. We have 600,000 organized workers. Actually, we have well over 600,000. I would say we have approximately 650,000 organized workers in Quebec. Of that number the CNTU represents about 200,000.

Mr. Boulanger: Mr. Chairman, may I ask a question? When you asked the question of Mr. Laberge about the argument that the CSN control, let us say, or speak for the French. . .

Mr. Lewis: I did not say "control".

Mr. Boulanger: No, no. I mean they speak for them or pretend to do so.

[Translation]

Mr. Lewis: We have the impression that the CNTU is the spokesman for French Canadians in Quebec, and I think that this is untrue.

Mr. Boulanger: Mr. Lewis, I hope you understand that we of the government do not feel that we decided to present the Bill because of that argument. In our eyes, this argument is invalid.

Mr. Laberge: No, we believed it.

Mr. Lewis: I am not quite in agreement with you on this.

Mr. Laberge: We believed the government thought this and that was why we said it to you.

[English]

Mr. Lewis: All I am saying—and again I am not saying it to provoke anybody—is that the Minister's speeches indicated that this

was not merely an injustice to the CSN, it was a question of the legitimate re-vindication of the French Canadian. Now, if that is not the case we are on a different level. The fact is, Mr. Laberge, that you formed a union to get rid of a bad union—the IATSE—which was not giving service and that union in the Province of Quebec is led, as it should be, by French Canadians. Is that correct?

Mr. Laberge: That is absolutely correct. The CUPE—Syndicat Canadien de la Fonction Publique—has one representative only with an English name but he is a separatist so. . . This is true. All of the others are French Canadians.

Mr. Lewis: Perhaps he is a member of the Irish Republican Army or the Scottish Nationalists or something like that.

I would also like to ask you some questions, very short ones, Mr. Chairman, about the Quebec practice. What is the composition of the Quebec Board? Mr. Gray said that you could give us some experience from Quebec that might be useful and that may well be. What is the composition of the Quebec Board?

Mr. Laberge: They have one president and, I believe, seven vice-presidents. By the way, they are all judges. When a lawyer—a legal adviser—is named to the Board he is made a judge. So there is one president, seven vice-presidents that are all judges and then there are four commissioners representing the employers and four commissioners representing workers.

Mr. Lewis: Are the four worker representatives divided two and two?

Mr. Laberge: There are two from the CNTU and two from the Quebec Federation.

Mr. Lewis: You were telling us that the Board there worked in panels. Do you know how many panels at one time?

Mr. Laberge: I would say no more than three or four, because they have what they call a roll-off practice and they sit in turn and they do not deal with special cases. They deal with all of the cases coming before the Board that week.

Mr. Lewis: I see.

Mr. Laberge: The time they sit especially in panels is during those hearings. Now, you must recognize that whenever there was a case before the Labour Board and a hearing

was requested by either the employer or a rival union we had to wait months and months before we could get a hearing. As a matter of fact, we were told a year and a half ago that either we could accept a vote to settle an argument or we would not get a hearing before 14 months. Even then, if there were any delays or if another session were needed it could be delayed an additional six to nine months.

Mr. Lewis: That takes me to the next question. Is there a very heavy workload before that Board?

Mr. Laberge: Oh, yes.

Mr. Lewis: Are they far behind in dealing with cases?

Mr. Laberge: They are quite a bit behind. They have improved quite a bit lately but there are still a great many cases before them. Just to give you an idea. . .

Mr. Lewis: Answer this question while you are at it: Are they all part-time members or are they all full-time members?

Mr. Laberge: The president, the seven vice-presidents and the eight members representing labour and employers are all full-time members, so that there are 16 full-time members. When there is a problem in one of those panels it is decided by the entire Board. I think this is extremely important. The entire Board decides on each issue raised in one of these panels.

Mr. Lewis: Even those members who do not hear the case?

Mr. Laberge: Oh, yes; absolutely.

Mr. Gray: Mr. Chairman, may I ask this question just for clarification? Do you mean there is an appeal from the panels to the full Board?

• 1730

Mr. Laberge: No, not an appeal, but if a particular problem is raised when a panel is hearing a case, the panel will refer it to the entire Board who sit regularly. I do not know how many times a month they sit, but they sit regularly.

Mr. Gray: What kind of problem? Perhaps we can have somebody from the Quebec Board come and tell us about it.

Mr. Laberge: For instance, an employer would request that certain so-called confiden-

tial employees would be knocked off the bargaining units requested by a union. If this were the first time the matter of this type of employee was raised, then the entire Board would rule on it.

Mr. Gray: Even though they have not heard the evidence?

Mr. Lewis: May I? I have the floor.

Mr. Gray: Oh, I am sorry. I thought we would be helping each other if I brought out this information.

Mr. Lewis: That is all right. I will bring it out. I suppose what you are saying, and I put this to you on the basis of a little experience, is that a panel hears a case and if, in the course of the evidence, an issue arises that would establish a policy of the Board. . .

Mr. Laberge: A precedent; yes.

Mr. Lewis: . . . a precedent that would be a new policy of the Board then, instead of the panel alone deciding it, that particular issue is decided by the whole Board. . .

Mr. Laberge: Absolutely.

Mr. Lewis: . . . in order that the policy may be the policy of the Board rather than a policy established by a division of the Board.

Mr. Laberge: That is correct, so that all panels sitting separately would have the same policy to follow.

Mr. Lewis: Yes.

Mr. Laberge: May I say, because the question was raised, that there is no appeal. A decision rendered by a panel cannot be appealed to the entire Board. You can ask for a revision of a decision but that revision will go before the same panel.

Mr. Lewis: This is also true of the present federal law. The Board has authority to revise any decision it has made.

Mr. Laberge: Absolutely; but there is no appeal.

Mr. Lewis: My final question may be in two or three parts, but I hope it will not take too long either to ask or to answer, Mr. Laberge.

Mr. Munro asked you—and he asked it once or twice before—a question to this effect: because you oppose the fragmentation of a bargaining unit, as you call it,—if I am misrepresenting Mr. Munro he will cor-

rect me—you want the law to impose unity on that bargaining unit. I think that is a correct statement. Mr. Laberge, do you know of any labour relations law in Canada or, indeed, in North America, law that does not impose a monopoly of bargaining rights on a bargaining unit?

Mr. Laberge: There was one in Quebec; and in Quebec one did not have monopoly of representation; that is, a majority union could be recognized, but so also could a minority union. Of course, nobody believes in that, and the CNTU, with the Quebec Federation of Labour, when we discussed Bill 54, said so, and the Government took it up. Now all across Canada, and it is the same in the United States, you have monopoly of representation; that is, when you get a certificate, you get a certificate to represent all of the employees in the bargaining unit whether they are members or not.

An hon. Member: Oh, absolutely.

Mr. Laberge: Whether they are members or not. Nowhere in the North American continent can workers decide what will be their bargaining unit—nowhere in the North American continent.

Mr. Lewis: It is the Board that decides it.

Mr. Laberge: Not in Quebec, not in Canada and not in the United States. The Board always has the power to decide what it will call an appropriate bargaining unit.

Mr. Lewis: An appropriate bargaining unit; that is right.

I think the record should make clear, Mr. Laberge—and I will put it to you because I am sure it is correct—that not only does the bargaining agent get the monopoly of bargaining rights, but are you not, as a bargaining agent certified for a bargaining unit by law, required to serve every employee in the bargaining unit whether or not he is your member?

Mr. Laberge: Absolutely; and as a matter of fact this has created some problems. We may have a worker who hates our guts and we would be representing him, too. He may refuse to participate in the affairs of the union and in its expenses, yet he has the right to force us into going to arbitration for him on grievances that are not really grievances. We have, of course, managed to prevent there being too many such cases, because you can well understand that this

could destroy a local union; but according to the law we have to service every employee in the bargaining unit whether we like it or not.

Mr. Lewis: Finally, in connection with all this, we are told—this is from memory, but I think I am right—that certain criteria have governed the decisions made by the Canada Labour Relations Board with respect to bargaining units, such as the nature of the industry, the community of interest, the history of bargaining, the history of the bargaining unit, and so on. From your experience as a trade unionist, are you satisfied with the criteria which the Canada Labour Relations Board has in fact employed through the years of its existence?

Mr. Laberge: Absolutely and most emphatically do I declare myself in favour of those criteria. As a matter of fact, what we are so flabbergasted about is that we rather than you who have been elected to defend the interests of all citizens, have to defend peace in the industry. We are in that position because, for example, as I said this morning, can you see the CNTU in Montreal representing the railway employees, or perhaps District 50 in Toronto, on the railway unions in Saskatchewan, Manitoba and Alberta, or the Allied Fishermen of America in British Columbia? How would you, as a government settle a dispute on the railway, where those unions, which hate each other—most of the time, at any rate—would not want to co-operate? They would not want to co-operate because one union would hope that the other union would sign an agreement and that they could do better. How could you hope to settle a dispute like that? And what is true for the railways is true in many more industries.

• 1735

Again, you must remember that it is the natural aspiration of workers to belong to the largest, most powerful bargaining unit. This is why, in industries that do not fall under federal jurisdiction, such as the tobacco industry, the automobile industry, the sugar industry, and so forth, the workers have had to strike and have had to do a lot of things to be able to bargain in one shot to equalize the wages and the working conditions.

Mr. Lewis: You will recall that, I said my question would be in two or three parts; Mr. Laberge, and this is my final one. It is well known by all the members of the Committee, but I want to put it to you: Under the present law, if an applicant persuades the Labour

Relations Board that it is desirable and in the interests of the employees, the employer and the public to break off a section of an existing bargaining unit do you know of anything in the present law that would prevent the Board from doing that?

Mr. Laberge: No; the Board has all of the power to do it at the moment; and the Board, in its wisdom, has always decided, not only against the CNTU but also against some of our affiliates, not to do it. Again, I repeat, the IBEW, supported by the CLC, the Quebec Federation of Labour and the Ontario Federation of Labour has spent a great deal of time and effort to try to get a majority in the Bell Telephone, but because the established bargaining unit is Quebec and Ontario and because it makes sense—people are transferred in both provinces, enjoy rights and have a better chance for promotion, and things like that—we have not been successful in getting an over-all majority. Twice in succession we have been refused a certificate by the Board.

Mr. Lewis: Did you apply for only one part of Bell?

Mr. Laberge: No; we applied for both provinces. Had we applied only for, say, Quebec we would have had a majority. There is no question about that.

Mr. Lewis: But you could not have split the bargaining unit?

Mr. Laberge: No.

Mr. Munro: Perhaps I could ask a supplementary question for clarification.

I spoke of units and I think there may be some confusion between local units within the internal operation of a unit and a national bargaining unit. To illustrate, in terms of a national bargaining unit it is possible that you could get, using the production workers of the CBC as an example, 70 per cent of all the English-speaking members of various locals of the one union across the country voting to have CUPE represent them, and, at the same time, within the local of that union in Montreal, a minority of French Canadian workers voting to affiliate with that particular union. In terms of what sometimes could be called the slavish adherence to the national bargaining unit that union will be imposed on those French Canadian workers in Montreal even though they were a minority vote.

Mr. Laberge: As a matter of fact, it is quite the contrary in this case. There are...

Mr. Munro: I know it is the contrary in this case. I agree with you. I am asking if that hypothetical situation is possible?

Mr. Laberge: Yes, this is possible; but as a matter of fact the situation is quite contrary at the moment. There are more people...

Mr. Munro: I agree with you on that.

Mr. Laberge: Excuse me, please. There are more people in Montreal and Quebec in that bargaining unit than there are in the rest of the country and it would be possible for the French Canadians in Montreal and Quebec to impose a national bargaining unit for the other people across the country. The mathematical chances of doing that are pretty slim but it is possible.

You have exactly the same situation everywhere in Quebec where you may have, perhaps, in some cases, a half of one per cent, or two per cent, or 10 per cent, or 15 per cent of English-speaking Quebecers in an industry, and even though they do not, for their own reasons, like being in the CNTU they have to be because a majority has decided that this is the union that should represent them. Therefore, what you have on the one hand you have on the other.

The reason for our raising that argument is that you are proposing, out of your generosity, to give us Bill No. C-186 to protect our freedom of association. I am saying to you that the same principle applies whether it be a bargaining unit in a locality, in a region, in a province, or in the country. The same principle exists. You do not have freedom of association based on the rights of individuals. You had freedom of association as they grew. You have a collective freedom of association.

• 1740

Mr. Lewis: As his question arose out of mine I am going to follow up Mr. Munro. He and even you, Mr. Laberge, again fell into the intellectual and logical trap, not set by anybody, that is constantly present in this argument. Immediately Mr. Munro asked his question you played the CNTU against the CLC union. This is just illogical. As we are dealing in hypotheses I will ask you a hypothetical question. Suppose, instead of the CNTU's being involved, the situation was as in the application which was before the Board and the rivalry in actual membership was between NABET, CUPE and ARTEC, all of which are affiliates of the CLC. Let us

forget the CNTU for the moment. If one of those unions won a majority in Montreal and a minority in Toronto would the situation be any different?

Mr. Laberge: No; absolutely not.

Mr. Lewis: All the time you fall into the trap of the CNTU versus the CLC.

Mr. Laberge: You raise a very good question because, as you know, it has happened.

Mr. Lewis: Sure it has happened.

Mr. Laberge: The Quebec Federation of Labour refused to support any affiliate of the CLC that we were not convinced could get a majority in and outside of Quebec. In other words, we would not have supported a situation in which the union, unsuccessful, in signing anybody in Quebec, could have forced a majority, even though presently this was not possible.

At the same time, we had the firm agreement from CUPE...

[Translation]

Mr. Boulanger: I demand some information, Mr. Chairman, Mr. Lewis...

Mr. Laberge: Let me finish what I am saying; you can ask for information afterwards.

[English]

We had the firm agreement with CUPE that if they were not successful in getting a majority in Quebec and outside of Quebec they would not follow through in their application because we wanted to establish the fact that both groups had an interest in this. As a matter of fact, CUPE also gave the right of veto to both groups so that their rights would be fully protected and there is no more question about the freedom of association being involved in this case than in any other.

The Chairman: Mr. Mackasey and Mr. Boulanger both have questions for clarification, but I draw to your attention the fact that we have about 15 minutes left. We have Mr. Émard and Mr. Grégoire, so really...

Mr. Mackasey: It is very short.

The Chairman: It is for clarification?

Mr. Mackasey: Exactly. Mr. Laberge, you mentioned that to the best of your knowledge, nowhere in the western world, at least, is the

appropriate bargaining unit decided other than by a board.

Mr. Lewis: In North America.

Mr. Mackasey: Yes; I know in Europe they do not have it. All right, we will keep to the North American Continent. Do you agree with that? Let us get down to the Bill. Do you see anything in the Bill that changes this?

Mr. Laberge: No, but the reason given for the Bill is that the workers have the right to determine their bargaining unit...

Mr. Mackasey: Yes, but...

Mr. Laberge: ...and because you feel that under the law the Board cannot do it you want to say to the Board, snap your fingers and you do it if the workers decide this is what they want to do.

Mr. Mackasey: Mr. Laberge, that is not the question I asked. I am trying to remain as impartial as possible. I just asked you whether there is anything in the Bill that removes from the Canadian Labour Relations Board the right to declare or determine what unit is appropriate?

Mr. Laberge: Since you have asked the question a second time I have to say yes. Your Board...

Mr. Mackasey: Why did you not say "yes" the first time?

Mr. Laberge: Because I did not think of the board of appeals the first time. Your board of appeal could do that.

Mr. Mackasey: Could reverse...

Mr. Laberge: That is right.

Mr. Mackasey: Yes, but the first decision would be made by the Board. This is the point I am getting at.

Mr. Laberge: That is right, but as I said this morning—and you were here, Mr. Mackasey—every request for certification is questioned by either the employer or a rival union or sometimes by the employees themselves. That happens.

Mr. Mackasey: I accept that, Mr. Laberge, and I do not want to get into a discussion about the merits or demerits of an appeal board because it is so late. Let us leave that until we get to the Bill. I am just clarifying those points for when we review the tes-

timony, which I think has been objective in the main.

• 1745

You mentioned criteria and I think Mr. Lewis brought it up. Do you see anything in the Bill that removes any of the present criteria which you state you are familiar with and which are outlined, incidentally, in number 3?

Mr. Laberge: Yes, and again for the same reason, this board of appeal and the fact that you are telling the Board, "You have had the right to recognize natural bargaining units; you have never done it; we are telling you, you have the right and furthermore we will put the board of appeal under you so if you do not do it they might do it".

Mr. Mackasey: In other words, you are stating that the appeal board clause is really the onerous clause in this Bill.

Mr. Laberge: It is the worst.

Mr. Mackasey: Without it, then, you would agree that the Board does have the right to establish an appropriate unit and that the criteria have not been changed by the Bill?

Mr. Laberge: No. The only thing that is changed by the Bill is a political influence on the Board to say, "Look, you have not done what we thought you should have done. Even though you have the right to do it you have not done it, so we are telling you you have the right to do it". In other words, as we say in French, "Si tu ne le fais pas, on va te changer."

Mr. Mackasey: There is one other thing, because it was left ambiguous. Speaking of the Quebec Board, did you say that there were members on the panel who could vote but who were not present to hear the testimony?

Mr. Laberge: I beg your pardon? Would you repeat that?

Mr. Mackasey: Did you say that in the Quebec system people could pass judgment by voting on an issue although they had not been present when testimony was discussed?

Mr. Laberge: No. I did not say that. I said that when a particular problem was raised in one of those panels and the panel thought it was new and needed a policy decision, the panel would refer it to the entire Board.

Mr. Mackasey: Would the entire Board then review all the testimony?

Mr. Laberge: Oh, no. They would simply decide on the particular point the panel raised.

Mr. Lewis: Could a time study man be in a collective bargaining unit.

Mr. Mackasey: Well, I just wanted to clarify it for Mr. Laberge's benefit as much as my own because earlier he was a little ambiguous on the point.

The Chairman: Thank you. Mr. Émard?

[Translation]

Mr. Émard: Mr. Chairman, this morning I listened with interest to Mr. Gagon speaking of small bargaining units. This reminded me that there are a great many small bargaining units in Canada. If we consider the fact that 70 per cent of workers are not organized, we then ask ourselves what the CLC is doing to organize them. For instance, when a large company establishes itself in the Province of Quebec, and I can give you an example, the case of an automobile plant, in St. Therese, all the large international unions are there, like vultures to try to get hold of them. I know of several small units that nobody seems to care about. No one seems to want to organize their workers. Is it because it is not profitable for the unions? I know it is not profitable. There is no getting around that fact. If you have a plant that has a hundred employees or less, it certainly is not profitable. However, when the Canadian Labour Congress, under Section 2(B) of its constitution, says that:

[English]

the purposes of this congress are to promote the organization of the unorganized into unions for their mutual aims.

[Translation]

It seems to me that the unions of Quebec, and this could apply to the rest of Canada, are not doing what they should to organize the small industries in view of the fact that these small units comprise 70 per cent of the employees in Canada who are not union members.

Mr. Laberge: First of all, let me correct two false statements that you have made. First of all, when General Motors established a plant at St. Therese, all international unions were there "like vultures". That is not true.

There was only one international union which organized the workers. That was the United Auto Workers Union. Moreover, this was done with the complete cooperation of all other international trade unions who offered their help. They did not descend like vultures to try to share the prey.

Mr. Émard: To correct myself, Mr. Laberge, I must tell you that in the first place, I did not mean to mention the St. Therese plant but another plant. All the same...

Mr. Laberge: Mention it. Its employees must not be organized.

Mr. Lewis: There are lots of them.

• 1750

Mr. Laberge: You say that small industry is not unionized. Here again you are wrong. You are making a very serious error in fact. There are trade unions in this country, and I will mention the Oil, Chemical and Atomic Workers' International Union as an example whose average number of members per local is 60. You say that less than a hundred is not profitable. This small union has an average membership of 60 in its locals. Now, recently we presented a brief on freedom of association, to the Quebec provincial government, because the present legislation does not favour organization of workers in a great many enterprises, and particularly small enterprises. You know how the small enterprise works, particularly in Quebec. A company of 40 employees, comprises at least 22 cousins, sisters, brothers-in-law, mothers-in-law, etc. How do you expect the other employees to organize themselves into a union? I can tell you that we made almost superhuman efforts to organize small enterprise. We have succeeded in organizing them, but not as quickly as they are growing. That is why we presented a brief, and we will be most pleased to send you a copy of it. because we have, I believe, made suggestions to revolutionize this entire system of certification and organization, precisely to give a chance to these workers who might have great difficulty in being organized, and to make legislation favouring the organization of these workers into unions. We did this with a great deal of pleasure. We are the only central labour body which has done this.

Mr. Émard: The fact remains however if I can depend on the book that I have here, it is the most recent copy: Labour Organizations in Canada which says that union membership

in January 1965 reached the unprecedented figure of 1,589,000 members, which is 29 per cent of the 5,343,000 non-agricultural workers in Canada. Now, I am sure that the other 3½ million employees are not all cousins and brothers.

Mr. Laberge: No, of course not. It is true, however, that you do have all commercial employees and all the bank employees. We have just achieved the first collective agreement for bank employees. You know that the services and commercial enterprises are multiplying more and more. I admit that the trade union movement was first of all started by workers in the crafts. They are not developing rapidly enough in relation to technological change. This is a fact and we recognize it. One thing is sure, however: legislation does not favour the unionization of workers in small enterprise.

Mr. Émard: Is the QFL affiliated with the CLC?

Mr. Laberge: No, we are chartered by the CLC. It is different.

Mr. Émard: What do you mean by that?

Mr. Laberge: We are chartered by them.

Mr. Émard: Do you accept the constitution of the CLC?

Mr. Laberge: Yes, of course.

Mr. Émard: I have a question to ask which will annoy you, before, I finish.

Mr. Laberge: Yes, I am waiting.

Mr. Émard: In the constitution, in section 12 of article 2, in the English version, (I do not have a French copy), I read:

[English]

While preserving the independence of the labour movement from political control to encourage workers to vote, to exercise their full rights and responsibilities of citizenship, and to perform their rightful part in the political life of the federal, provincial and municipal governments.

[Translation]

How can you explain the fact that workers are encouraged to join a political party and support it with their funds if we rely on this particular article 12 of the constitution?

Mr. Laberge: There is no contradiction at all. I do not see why. If you wish to ask supplementary questions as you do when you try to embarrass a minister, you can do so a little later on. I do not understand the nature of the relation you have established between the QFL and the CLC on the one hand and this particular section on the other. I thought that the question you wanted to ask me was this: is the QFL obliged to support all policies of the CLC? This would have been a better question to trip me up.

Mr. Grégoire: Mr. Laberge, you were told a little while ago that you did not make any good suggestions in your brief. As for me, I can find at least one good one at the bottom of page 16 and on page 17 of the French edition.

Mr. Laberge: I think I know what you are referring to already.

• 1755

Mr. Grégoire: You seem to say, first of all, that you do not care about the appointment of the second vice-president, but what you want is:

“A competent president and vice-president, and that bilingualism be an essential element of competence”.

I see that you speak English very well, but when you have to deal with the CLRB, do you suffer from the fact that the president and vice-president are not bilingual?

Mr. Laberge: Obviously when you ask me the question, the answer is no. Sometimes I pretend to have to look for my words in English, and this gives me time to think. There is no doubt that for trade unions which come from Quebec, it would certainly be easier to present their case in French, and that is why we say it, very squarely. We do not want a bilingual president but we do want a competent president. One of the essential qualities of this competency should be bilingualism.

Mr. Grégoire: You say:

“Be an essential element”.

Mr. Laberge: At the present time, for example, there are trade unions, many of which come from Quebec, that will present their case in French. They rejoice in having simultaneous interpretation.

Mr. Grégoire: . . . They are at a disadvantage.

Mr. Laberge: Of course, it is not so close, not so intimate as speaking directly to our questioners. When we speak of a second vice-president, I believe it is an insult to French Canadians. Why a second vice-president? Why not the first? Why not the president?

Mr. Grégoire: If one vice-president is French-speaking, and the president and the first vice-president are English-speaking, what language do you think the second vice-president will speak?

Mr. Laberge: That is why it is not a solution.

Mr. Grégoire: . . . English?

Mr. Laberge: That is why it is not a solution at all.

Mr. Grégoire: I can find another good suggestion. You say that:

“Bilingualism be an essential element of competence at this level of responsibility in all federal administrative bodies.”

Are you suggesting that the same thing happen . . .

Mr. Laberge: It is not the first time we have asked for it and suggested it.

Mr. Grégoire: Do you think there are any improvements, or what?

Mr. Laberge: They have not come about quite as fast as we hoped.

Mr. Émard: . . . Are there any?

Mr. Laberge: There are improvements. Yes.

Mr. Grégoire: Would it be difficult for you to name some?

Mr. Laberge: . . . Pardon me?

Mr. Grégoire: Would it be difficult for you to give us some examples?

Mr. Laberge: There were none in the Department of Labour; I am speaking of the internal structure.

Mr. Grégoire: And to complete, you say:

“Let those who speak only English be replaced as quickly as possible by competent and honest people who are bilingual.”

Mr. Laberge: In the internal structure of the Department of Labour.

Mr. Grégoire: Is this the first time you have presented such a suggestion to a parliamentary committee or to the Department or...

Mr. Laberge: Before a parliamentary committee, yes.

Mr. Grégoire: ...to the Federal Cabinet?

Mr. Laberge: We of the QLF never present briefs to the Federal Cabinet. We inform the CLC of our needs and our requirements.

Mr. Grégoire: Has the CLC ever mentioned it to the Federal Cabinet?

Mr. Laberge: Yes.

Mr. Grégoire: In such forceful terms as that?

• 1800

Mr. Laberge: I do not know. Obviously, when a member speaks, he sometimes says the same thing as somebody else, but he may sometimes use stronger language.

Mr. Grégoire: Throughout your brief you use forceful terms.

Mr. Laberge: Yes.

Mr. Grégoire: ...because you thought it was necessary.

Mr. Laberge: That is correct.

Mr. Grégoire: When you deal with deaf people, you have to use strong words to wake them up. Is this true or not? I understand you in this regard, Mr. Laberge. My question is as follows and is designed to complete what I have already said. When you use expressions like this: that unilingual people be replaced as soon as possible by competent and honest bilingual people, do you know if the CLC has presented this request in such strong terms to the Federal Government at your suggestion?

Mr. Laberge: I do not know if they used such forceful terms. Let us say that the last CLC brief contained terms as forceful as ours.

Mr. Grégoire: In this regard?

Mr. Rancourt: This brief was presented to the B & B Commission.

Mr. Grégoire: Was it the CLC which presented it?

Mr. Rancourt: The CLC presented a brief to the B & B Commission in which it requested that all the federal public servants be...

Mr. Grégoire: It did not present it to the government. The B & B Commission is not the government.

Mr. Laberge: And recently again, representatives of the CLC met with the Prime Minister when the former President of the CLRB was leaving, and they insisted that the president or that the vice-president become president and then at least we would have one vice-president who would be...

Mr. Grégoire: At that time you only wanted one, but here you are asking for two.

Mr. Laberge: No, we are not asking for either one or two. We say that they all should be bilingual but, first of all, we want honest upright and competent people.

Mr. Grégoire: Yes, in the determination of competence, bilingualism is an essential element.

Mr. Laberge: That is correct.

Mr. Grégoire: Do you not believe that you are at a disadvantage, because when your demand passes through the CLC, the terms you used are made less forceful? They only ask for one of the two, whereas when you alone present your brief, you request that they all be bilingual.

Mr. Laberge: We do not think we are treated unfairly.

Mr. Grégoire: Listen, the facts speak for themselves.

Mr. Laberge: We were very proud of the presentation of the CLC's last brief.

Mr. Grégoire: Yes, but they only asked for one out of two. You are asking...

Mr. Laberge: No, not at all. They did not ask for one of two. This was just a suggestion. You are just picking one particular passage with regard to something which has happened.

Mr. Grégoire: I asked for an example. It is a passage...

Mr. Laberge: I gave you an example.

Mr. Grégoire: Yes...

Mr. Laberge: This is an example. There are many other requests.

Mr. Grégoire: You seem to hesitate a bit there. You will admit all the same that the

terms you use here are more forceful than those of the CLC.

Mr. Laberge: No, I do not admit this at all.

Mr. Grégoire: Then I will show you a brief in where the CLC uses terms as strong as those.

Mr. Laberge: Very well.

Mr. Guay: To clear up a point, Mr. Chairman, please. Here we have to refer to previous testimony; Mr. Grégoire wants to defend your brief as being positive and having recommendations...

Mr. Grégoire: That is the beginning.

Mr. Guay: I recall other testimony in which it was clearly stated that we should not make this a cultural or linguistic affair. He says moreover that this was being constructive. At this time, all of the groups then who came to testify here and who are affiliated to the CLC said we should not discuss this.

Mr. Grégoire: No. That is not quite the point I want to emphasize, Mr. Chairman, but rather the business of efficiency, of competency. As Mr. Laberge has mentioned, competence...

• 1805

[English]

Mr. Lewis: Mr. Chairman, Mr. Guay was not right. That statement was made with respect to the bargaining unit, not with respect to the composition of the Board. The other people who were before us said that in the case of a bargaining unit, the bilingual and bicultural thing is not important, that there the conditions of work are important. They were not talking about the bilingualism of the Board.

[Translation]

Mr. Émard: Mr. Chairman, two very short questions, please.

Mr. Grégoire: But I had not even finished that subject.

Mr. Émard: I should like to ask you, are you aware that the *Labour Gazette* is now published in French and English at the same time?

Mr. Grégoire: That is not a supplementary question, as I was not even talking about the *Labour Gazette*.

Mr. Émard: Professor Jean Després has become head of a department, in the Department of Labour.

Mr. Laberge: Oh, he was a professor? I did not know that. I know Jean Després very well, but I did not know he was a professor.

Mr. Laberge: He is a competent fellow, we grant you this. This is an improvement. There have been others. That is why we said there have been improvements; never fast enough to satisfy us completely, but there have been improvements.

Mr. Grégoire: To conclude with the discussion of this problem, I congratulate you for using forceful terms, I congratulate you for realizing what the situation is. A little further on, you even say that "the administrative sectors especially of the Department of Labour which are English-speaking only and which constitute the internal structure should become bilingual". I congratulate you for pointing out that even after a hundred years, nothing has been changed, that things are more English than ever. And now I would like to deal with another problem. I also hope that the CLC will include you in all that.

Mr. Laberge, at one point on page 14 of your brief you say:

Regardless of this theorizing, one fact remains: the officious Minister of Labour...

Who is he? Is Mr. Mackasey who has just been named Minister?

Mr. Laberge: Of course at the time we wrote the brief, I do not know if Mr. Mackasey had been appointed. But at the present time he is not an officious minister. No, we are speaking of the sponsor of the bill who was not the minister of labour as you know quite well.

Mr. Grégoire: Who?

Mr. Laberge: The Minister of Manpower and Immigration.

Mr. Grégoire: Because in *Hansard* we mention that it is Mr. Nicholson...

Mr. Laberge: Yes, officially, that is why we refer to the officious minister.

Mr. Grégoire: And you say:

That the unauthorized spokesman for Quebec in the government...

Is this the same person, the Minister of Manpower and Immigration and the unauthorized spokesman?

Mr. Laberge: Yes.

Mr. Grégoire: So you admit that he has no authorization from Quebec.

Mr. Laberge: He has some authorization from Quebec but he is not authorized to speak for all of Quebec. If you will allow me, Mr. Grégoire...

Mr. Grégoire: In the government.

Mr. Laberge: I am very pleased that some parts of our brief satisfy you; however you should not use it to go off on a tangent that we do not admit. In our opinion, it is the freedom of workers, their rights and interests which should dominate all our discussions. Of course the workers of Quebec have the right, to our way of thinking, to be heard in their own language when they come before federal bodies. That is a fact; and we advocate it, and we agree with it. On the other hand, we also agree that we should not put up any fences around Quebec workers.

• 1810

Mr. Grégoire: I agree with you in this regard, Mr. Laberge. However, I did not agree entirely with your terminology, even if Mr. Jean Marchand does not belong to the same political party as I do and does not have the same ideas, he still is a minister and that is why the first time I used the expression. Jean Marchand is still a minister of the Canadian government. I am still a Canadian citizen for the time being, and as such I believe he still merits some respect.

Mr. Laberge: And you are saying that we take your remarks with very high consideration, particularly coming from you. It's priceless!

Mr. Grégoire: That is what I have always said.

Mr. Laberge: That's good.

Mr. Grégoire: You say that he greatly misled the House of Commons on the 4th of December, 1967 and here, by citing *Hansard*, page 5002 of December 4, 1967, you quote what he said:

I have never seen, in the Canada Labour Relations Board members of the Canadian Labour Congress voting against one of their unions concerned, when it was in conflict with another union.

Then on page 14, you continue by saying:

An examination of CLRB decisions involving the CNTU during the years 1966 and 1967 shows that the Minister either was lying...

Mark well the term used,

or didn't know what he was talking about.

Then, by quoting the *Labour Gazette*, you try to give proof. I do not see any proof here.

You say among other things that:

CLC affiliates intervened against 14 of these 29 petitions;

presented by the CNTU for certification. That does not mean to say that the CLC people did not vote against these applications. Do you have the names of those who voted for and against the CNTU in each of these cases?

Mr. Laberge: Yes, dear friend.

Mr. Grégoire: You have them?

Mr. Laberge: It is in the official records. We do not know who voted for and against...

Mr. Grégoire: Oh, well...

Mr. Laberge: Let me finish. But in the official report we do know that when a decision has been made, the names of the members in attendance are recorded and also any objections which might be made. In no case was any dissenting vote recorded. I was curious and I went a little bit further. I asked those who came from the CLC how they had voted. They said that they voted in favour and everyone knows this. So in cases where an affiliate of the CLC had certification, it happened that they voted to remove it and give it to the CNTU. Therefore, when Jean Marchand said it never happened, what can you say, he misled the House at that point, either because he did not know, or because he was lying.

Mr. Grégoire: A few days ago, a CLRB witness told us that votes were not recorded.

Mr. Laberge: The dissident ones only.

Mr. Grégoire: The dissident ones.

Mr. Laberge: That is it.

Mr. Grégoire: So it is only after having asked the representatives of the CLC, that you were able to know that some voted with the CNTU against certain certifications.

Mr. Laberge: No, no. There is more to it than that, all the same. Once again, the official record shows that in the absence of the CNTU representative, certain certifications were removed and given to the CNTU. At that time, none of the three labour representatives in attendance, belonged to the CNTU. It is just as simple as that. And there were no dissenting votes recorded.

Mr. Grégoire: But we were told they were not always recorded.

Mr. Laberge: But if there are dissident votes, they are always recorded.

[English]

Mr. Boulanger: Mr. Chairman, may I raise a point of order now? I do not have anything against Mr. Grégoire and although he is not a member of the Committee I know he has the right to ask questions, but knowing that it is already after 6 o'clock and that the House of Commons has adjourned I think we should call it 6 o'clock here too, because we have to come back tonight at 8.

The Chairman: I think everyone has had a chance to cross-examine Mr. Laberge, and Mr. Grégoire was the last...

Mr. Boulanger: Yes, but we do not know how long he is going to go on.

The Chairman: I do not think that should prejudice—I would suggest that an introduction like this might urge him to go on longer.

Mr. Boulanger: Mr. Chairman, if you will permit me, Mr. Grégoire just told me now that he might still need another 15 minutes or so.

The Chairman: If Mr. Grégoire would continue and bear in mind the time...

Mr. Grégoire: Would you prefer to continue at 8? I do not care.

The Chairman: No, no, we will finish with you.

Mr. Boulanger: The only thing to do—you know Mr. Grégoire.

The Chairman: Mr. Grégoire.

Mr. Boulanger: I do not want to be unjust. I think this is serious, Mr. Chairman. I am not going to lose my temper, and like Mr. Laberge, I have a hot one too. Mr. Chairman, you know that if a motion is put to adjourn, it is in order. I do not want to do that but, on

the other hand, I am not going to stand for any games being played in Committee because it is after six o'clock. If Mr. Grégoire is really trying to bring something out, you must remember he is not a member even though he has the right to question.

The Chairman: That is right.

Mr. Boulanger: If we are going to carry on until 6.30 or 6.45, I am sorry but I am going to leave and then you will not have a quorum.

The Chairman: Well we will rely upon Mr. Grégoire's good sense to...

[Translation]

Mr. Boulanger: Fifteen or twenty minutes, should be enough for the answers he will give.

Mr. Grégoire: It depends on the answers, of course. I would rather have Mr. Laberge answer...

Mr. Boulanger: Then do not answer him at all.

Mr. Grégoire: Mr. Chairman, I object vigorously to the statements made by the member for Mercier, and I will tell you why. I object even to his suggestions. You know and I know, that I am the only member of Parliament who is not a member of any committee and from discrimination, besides that. In view of the fact that I do not belong to any committee, the member for Mercier can bring up points like this one.

I have already said in the House that if sometimes I take time to consider a bill, it is because I was not accepted on committees and today I have the proof of it.

Mr. Guay: On a point of order, Mr. Chairman.

[English]

The Chairman: Order, please.

[Translation]

Mr. Gray: Mr. Grégoire should ask his questions instead of making observations of this kind.

Mr. Grégoire: I wasn't the one to make the remarks, the member for Mercier did.

[English]

Mr. Gray: No, but in the case...

The Chairman: It is this type of exchange that is a pathetic waste of our time...

Some hon. Members: Hear, hear.

The Chairman: ...and a waste of the time of our witnesses. I would ask Mr. Grégoire to continue his questioning, to try to be brief, and to bear in mind that we have gentlemen in the audience who have been waiting here since three o'clock.

Mr. Boulanger: Well, that is what I was trying to say, Mr. Chairman.

The Chairman: Mr. Boulanger, my ruling was that Mr. Grégoire would not be prejudiced because he was the last witness. I am appealing to him, because of the time that is available to the Committee, to try to be brief and to the point, and I appeal to the witnesses to be brief in their answers. Mr. Grégoire, would you proceed.

[Translation]

Mr. Guay: Mr. Chairman, on a point of order. Mr. Grégoire said a little while ago, and he even suggested that it is a question of privilege, that it was because of discrimination that he was not a member of any committee: it is just that...excuse me, Mr. Chairman, he never agreed to the committees sitting at the same time as the House. We are not going to sit between six and eight o'clock every night especially to please Mr. Grégoire.

Mr. Grégoire: What the member from Lévis has just said is false, because it is the Regulations that say that a committee is not to sit at the same time as the House.

[English]

The Chairman: Will you please continue. I do not see the points of order or the points of privilege.

[Translation]

Mr. Grégoire: Here you have elucidated a point. A few days ago, we were told that nothing was registered officially in the CLRB reports, with regard to the votes cast by each individual. Yet, as a result of your questions to members of the CLRB, we see that it has happened that the CLC voted for the CNTU, even when there was a conflict between the CNTU and the CLC.

Mr. Laberge: And vice versa.

Mr. Grégoire: And vice versa. Now this stems from my previous questions. At one point, I do not remember exactly on which

page, you say that the Canada Labour Relations Board has a quasi-judicial function.

Mr. Laberge: It judges.

Mr. Grégoire: There are three CLC representatives and one CNTU representative on this board. When a problem concerning both the CLC and the CNTU is dealt with, and both sides are opposed, do you think it is fair?

● 1815

Mr. Laberge: There has never been any problem before. The fact is that the CLRB, in practice, has a balanced vote, which is to say that if there is a representative missing among the four employer representatives, or if there are three missing, the value of the vote on management side has the same value as that of the employee side and vice versa. That is why, when Mr. Picard was boycotting the CLRB, and there were certifications granted for CNTU affiliates to the detriment of CLC affiliates, the representatives necessarily had to vote in favour, otherwise it would have been a decision of the President, and I think that in such a case, it bears a mark.

Mr. Grégoire: Not necessarily, Mr. Laberge, if the four employer representatives and the President voted one way, and the three CLC...

Mr. Laberge: The President never votes: he decides.

Mr. Grégoire: And so, even when Mr. Picard was absent, if the four employer representatives voted in one way, and the three of the CLC voted the other way...

Mr. Laberge: It would balance out; it would balance.

Mr. Régimbal: A supplementary question. Mr. Laberge, do you admit that the representatives on the CLRB are representatives of the CLC?

Mr. Laberge: No, they are representatives who were suggested by the CLC, but they are there to defend and protect the interests of the workers.

Mr. Grégoire: But when there is a conflict between the two. There are three appointed by the CLC and one by the CNTU, do you not find that mathematically speaking—from a purely mathematical point of view—the CLC has an advantage over the CNTU?

Mr. Laberge: No. Of course if the representatives were present with the same attitude as Mr. Marchand when he spoke in the House, this would be the case. But they are there to protect and defend the interests of the workers. Whether the CNTU or the CLC made an application—and once again this is important, and I stress it—until the CBC conflict, there was never a single dissenting vote recorded either from the CNTU representative or from the gentlemen who were suggested by the CLC, even when there were conflicts between the unions.

Mr. Grégoire: I am not giving you a case, an example, I am asking you from a mathematical point of view. You have just mentioned that the CLC fellows were there with the same attitude as that of Jean Marchand, Minister of Manpower and Immigration, when he spoke in the House. Yet, the Minister of Manpower is no longer in the labour movement and you recognize that he still favours the CNTU. This cannot be lost. Do you think that your three CLC representatives are so angelic that they cannot still be tempted to favour the CLC?

Mr. Laberge: Mr. Grégoire, if this had happened, do you not think that the CNTU representatives would have recorded his dissenting vote? This is precisely it; but it has never happened.

Mr. Grégoire: In some cases, perhaps, but I am speaking of...

Mr. Laberge: Even in cases of conflict between the CLC and the CNTU, neither the CNTU representative nor the ones suggested by the CLC and appointed by the government ever recorded a dissenting voice one won out over the other.

Mr. Grégoire: Unfortunately, I do not have the figures because I do not have the opportunity of speaking with the representatives. That is why I cannot give you a definite example since I do not have the details you can get.

Mr. Laberge: You can get the details in the same place we did.

Mr. Grégoire: But you have spoken with CLC representatives.

Mr. Laberge: It was published in the *Labour Gazette*.

Mr. Grégoire: But in addition, you also have the replies which you received from your members.

Mr. Laberge: Then go and meet them. They will give you all the information you wish with a great deal of pleasure.

Mr. Grégoire: Have you filed this information?

Mr. Laberge: Pardon me?

Mr. Grégoire: Have you filed this information?

Mr. Laberge: I think so. There were decisions published giving the names of members. Yes, we have this. You can find this at the CLC office.

Mr. Grégoire: Consequently you do not feel—you quote precise cases, which I do not have—that in principle, with three on one hand and one on the other, plus the four management representatives and the President, the CLC, which has suggested three of these members, has the advantage?

Mr. Laberge: But there is worse still. There are all the independent unions that have no representatives. How do they go about getting certified? No one would ever vote for them.

Mr. Grégoire: If there were decisions which these unions found unjust, would the appeal board not correct them?

Mr. Laberge: No, the appeal board has nothing to do with this. It is strictly limited to determining the bargaining unit. That is all. This is what the bill states. This appeal division does not settle conflicts between the two.

• 1820

Mr. Grégoire: It can correct the decisions of the Board.

Mr. Laberge: With regard to bargaining units only.

Mr. Grégoire: But this is the problem involved now.

Mr. Laberge: No, it is not the present problem; it was the problem with the CBC.

Mr. Grégoire: I see.

Mr. Laberge: The appeal division would not have only to decide in a case like that of the CBC. With every application for certification, there are always conflicts as to whether, let us say, the technicians, whose classification and seniority are presently under study, should be covered by the collective agree-

ment. It is on such points that the appeal division would have to make decisions. Thus there is no application for certification that would be approved without going through the appeal division.

Mr. Grégoire: If one of the parties was not satisfied.

Mr. Laberge: There is always someone who is not satisfied. Either management, because it has the right to question, or some of the workers because they too have a right to question, rival unions, independent unions, everybody has this right.

Mr. Grégoire: I still have a few questions.

Mr. Laberge: another point. I will tell you quite frankly that at first sight, if I am in favour of Bill C-186—and I would like to have your opinion on this—it is not because of the CNTU or the QFL, and it is not to have an exclusively Quebec union. I understand there would be advantages for a union to be a negotiator for all workers. Well, let us speak of the freedom of the workers. If really it is to the advantage of the employees of the CBC French network to belong to a single bargaining unit, then even if the CLRB allows the CNTU to represent them separately, you will, all the same be in a position to provide proof of the advantages, will you not?

Mr. Laberge: Yes.

Mr. Grégoire: And if there are advantages, this labour union for the French network will vote for a Canada-wide bargaining unit.

Mr. Laberge: It has already done so on three occasions.

Mr. Grégoire: Yes, but look here, on three occasions...

Mr. Laberge: You are speaking of a false problem. Wait a minute...

Mr. Grégoire: I will finish asking my question.

Mr. Laberge: Proceed!

Mr. Grégoire: I will finish asking my question. However, I will not argue with Mr. Laberge and Mr. Laberge will not argue with me either. I know Mr. Laberge.

Mr. Laberge: I do not want to fight with you, I am eager to tell you...

Mr. Grégoire: You said that the CNTU expressed its opinion on three occasions. Now I remember very well...

Mr. Laberge: It was not a question of the CNTU.

Mr. Grégoire: No, the employees expressed themselves on three occasions. Now I remember very well that for one of those votes the name of the CNTU as such was not on the ballot.

Mr. Laberge: Of course not.

Mr. Grégoire: Then the worker, the employee did not have complete freedom, because the name of the CNTU did not appear on the ballot. If it had, would the result of the vote have been the same?

Mr. Laberge: Yes, but if it had recruited a majority it would have been on the ballot. We come to votes which are divided between the two. For instance, at Hydro-Quebec, the vote was split between the CNTU and CUPE. Neither the steel workers nor the CBRT nor any other union received votes. The representatives of these unions could have said that if their names had been on the ballot the vote might have been... Let me finish! When the employees of the provincial government were "given" to the CNTU through a special bill it was not done through the Labour Relations Board. There was a vote. The name of the QFL was not on the ballot. The names of the CNTU and the independent public servants union alone were there. If the QFL had been on it, the result of the vote might have been changed considerably. At such a time would we be obliged to start burning the Fleur-de-Lys saying they are destroying the freedom of workers?

● 1825

It is obvious that, when you have the monopoly of representation naturally, you are limiting, to a certain extent, the freedom of workers. There is no doubt about this. There are always workers in any bargaining unit who are not satisfied, who do not want to belong to the union that was chosen by the majority. There are some everywhere. They exist at the CBC, among the provincial government employees, in the federal government.

Mr. Grégoire: You are leading me away from my previous question. You say that the name of the CNTU had not been accepted on the ballot because it had not obtained a

majority. Neither of the two other unions had a majority at that time.

Mr. Laberge: I beg your pardon. CUPE had recruited a majority and that is why it was on the ballot. IATSE had a majority since union deductions were already made. That is why they were on the ballot.

Mr. Lewis: Excuse me, IATSE did not have a majority, but it was the existing union.

Mr. Laberge: But it had the representation. And this is another good point. An existing union never loses its certification without a vote. So CUPE had recruited a majority of the workers, appeared on the ballot and won the vote over IATSE with a tremendous majority. However, there were 18 votes missing in order to have an over-all majority, because the CNTU boycotted the vote, as you know, and prevented 78 workers from voting. Consequently, 78 workers, influenced by the boycott on the part of the CNTU, prevented 741 Quebec workers from having a collective agreement negotiated, and in the past year, has prevented 1,400 workers in this bargaining unit from obtaining the same thing.

Mr. Grégoire: Mr. Laberge, the arguments you are giving me now seem to go against you. You are telling me that CUPE, the Canadian Union of Public Employees, proved to the Board that it was supported by the majority of employees, but when it came time to vote, it no longer held a majority.

Mr. Laberge: They did have it.

Mr. Grégoire: They were short 18 votes because 78 workers did not vote! Probably by producing cards to the CLRB they appeared to have it, but when the vote was held, no one had a majority.

Mr. Laberge: That is true.

Mr. Grégoire: If the CNTU, at that particular point had been allowed to put its name on the ballot, I do not say it would have had the majority.

Mr. Laberge: No one would have had it.

Mr. Grégoire: Perhaps.

Mr. Laberge: Perhaps...

Mr. Grégoire: But, at least at that time on the French network—the Montreal unit, as you call it—if the CNTU had had a majority, would you have had the opportunity, in spite

of everything, to show them the advantages to be had in an affiliation with Toronto?

Mr. Laberge: That has nothing to do...

Mr. Grégoire: If the CNTU had had a majority in Montreal, do you think that the employees could have had their own bargaining unit?

Mr. Laberge: No, it is not up to the workers to determine their bargaining unit. It is not done in Quebec. It is not done anywhere. The Board decides which will be the appropriate bargaining unit. If you will allow me, I will tell you that your questions always turn around this same question. You will never be able to ask me a question that will make me say that the CBC employees were deprived of their right of association. It is not true. The CBC workers showed what they wanted to have. They signed cards five times in Montreal: twice with the CNTU, twice with CUPE, once with the Canadian Television Union. What more do you want? As for Bill C-186 which you would give us in your generosity, we do not want it. Do what you want with it, we do not want it.

Mr. Grégoire: But, Mr. Laberge, we do not want to impose on you or on any other union the CNTU's recruiting more workers than the QFL.

Mr. Laberge: The workers themselves decided; a majority signed.

Mr. Grégoire: That is a thesis I do not accept, because I believe that the CBC workers did not have the choice they should have had to make their decision. They were not allowed to put the name of the CNTU on the ballot. As for those who voted in spite of this, they needed much more courage and energy to nullify their vote and write "CNTU". You say that CNTU kept 78 workers away from the ballot.

Mr. Laberge: Physically.

Mr. Grégoire: Mr. Laberge, if this was done...

Mr. Laberge: This was done. Proof was established before the CLRB.

Mr. Grégoire: If I had been physically prevented from going to vote somewhere, I would have gone before the courts.

Mr. Laberge: Yes, but there are also young girls in this bargaining unit.

Mr. Grégoire: There were 78. You are not going to tell me that all of these 78 were little girls who were afraid.

Mr. Laberge: No. I am not saying that all the 78 were prevented physically, but there were some. The hallway was blocked in the afternoon during the last few hours of voting. It happened, it's a fact.

[English]

Mr. Lewis: We have a rule in Parliament that although a member may have a right to ask a question there is no obligation to answer.

[Translation]

Mr. Grégoire: At one point here in your brief, you say that the CNTU affair was promoted by a handful of militant separatists at the CBC. If those people find this is a sufficient reason for changing unions...

Mr. Laberge: They have a right to do so.

Mr. Grégoire: If it is an advantage.

Mr. Laberge: They have the right.

Mr. Grégoire: I see that everyone is in a hurry. I would like to ask a few more questions. They will only last three more minutes, I will be brief.

Mr. Laberge, you are a little like me: when you have ideas, you hang on to them. If, for instance, you belong to a local union and the leadership decides to back the NDP, what will happen? You can very well say that you are not for the NDP; that socialism is not too bad, but because the members of this party are federalists, you are not for it. You would not accept such an opinion without protesting, would you?

Mr. Laberge: Not one single worker is under compulsion, and I challenge you to find one single one.

Mr. Grégoire: If they obtain a majority.

Mr. Laberge: If I tell you that you are for independence, does that insult you?

Mr. Grégoire: No, sir.

Mr. Laberge: I just say that they are militant separatists, that is all. That is what they are said to be.

Mr. Grégoire: They have a majority, because...

Mr. Laberge: If they had had a majority they would have voted outside Quebec. Therefore they do not have a majority yet.

• 1830

Mr. Grégoire: They are not far from it. Now, I would like...

[English]

Mr. Munro: Could I just interject for one minute to clarify the record so as not to do any injustice to anyone. I mentioned Mr. Picard earlier when talking about the United Steel Workers of America representative. The name I should have mentioned was J. Gerin-Lajoie.

Mr. Laberge: And for the record, Jean Gerin-Lajoie has not been supported by the United Steel Workers of America International Union, he has been opposed by that Union, and he has been elected by the 25,000 members of the Steel Workers in Quebec.

Mr. Munro: That may be very true. All I said was the International Union appointed him to come into Hamilton to discipline Canadian workers.

Mr. Laberge: You are making a false statement.

Mr. Munro: I am not making a false statement and I will stand by it.

Mr. Laberge: All right, then you prove it.

The Chairman: On the basis of that, gentlemen, I think possibly we can adjourn. Yes, Mr. Grégoire, do you have a question?

Mr. Grégoire: You said we had been sitting for two hours and three minutes. There is still one minute left and I have one last question. I will be finished when I have the answer.

[Translation]

You say that CBC employees in Montreal were not satisfied with IATSE because they were not getting any service when they were involved in legal proceedings. In the actual order of events, after this the CNTU began its work.

Mr. Laberge: No, we formed the Canadian Television Union.

Mr. Rancourt: And it recorded a majority.

Mr. Grégoire: Had the CNTU started its work, then?

Mr. Laberge: No, not at this time.

Mr. Grégoire: It started afterwards.

Mr. Laberge: Yes.

Mr. Grégoire: Mr. Chairman, I could say that I have other questions to ask, but...

[English]

The Chairman: Gentlemen, thank you very much. It was very nice to have you before us and we wish you a safe journey home.

We will meet at 8 o'clock to hear the gentlemen who have been so patient and have been waiting at the back of the hall.

The meeting is adjourned until 8 o'clock.

EVENING SITTING

• 2054

The Chairman: Gentlemen, we have a quorum.

Mr. Gray: Mr. Chairman, could we deal with a matter of procedure before we begin to hear our witnesses? For reasons beyond the control of anyone we were not able to hear from this very important group of witnesses until this evening. We want to have the maximum opportunity to question the witnesses on their briefs and also to give them the maximum opportunity to present their views. I wonder, as it is rather late, if we should not agree now on how we can give them more or sufficient time to be fully heard.

The Chairman: I think you have expressed the feeling of the Committee. We will continue to sit tonight until 10 o'clock. I will convene a meeting of the Steering Committee and we will attempt to reschedule this very important group at some other time. We have had some tentative discussions, and complications may arise out of the date, March 7th, but we will do that. It appears to be the feeling of the Committee that we should meet again, and the witnesses are quite agreeable to do so.

• 2055

I will now introduce the witnesses, most of whom you probably know. On my immediate right is Mr. Arthur Gibbons, Executive Secretary of the Canadian Railway Labour Executives' Association, who will be presenting the first brief.

If I might inject a personal note, Mr. Gibbons has been extremely co-operative in

bringing the various groups together, and it is largely through his efforts that everyone is here tonight. On behalf of the Committee I wish to thank him for his co-operation.

Next to Mr. Gibbons is Mr. Charles Smith, Vice-President, Brotherhood of Maintenance of Way Employees and Chairman of Canadian Railway Labour Association; next to Mr. Charles Smith is Mr. Bill Smith, President, Canadian Brotherhood of Railway Transport and General Workers; next to him is Mr. McGregor, Vice-President, Brotherhood of Railway and Steamship Clerks; and then we have Mr. Clark, who is the President, Division No. 4, Railway Employees Department.

There are three briefs, and they will be presented individually. I think we should hear the three briefs and then go into the questioning.

I now call upon Mr. Gibbons to present the first brief.

Mr. A. R. Gibbons (Executive Secretary, Canadian Labour Executives' Association): Thank you Mr. Chairman and members of the Committee.

Our brief, which was sent to you in accordance with the wishes expressed by your Steering Committee on February 20th, I believe, is entitled: A Brief on the Subject Matter of Bill C-186; presented to your Committee by the Canadian Railway Labour Executives' Association.

Our association, representing all railway workers in Canada, appears before you today to inform you that we are unalterably opposed to Bill C-186.

For reasons which we will set out, we state most emphatically that the Bill should not have been introduced. However, inasmuch as it has been introduced, we are of the opinion that the responsibility of your Committee is to report back to Parliament that the Bill, if enacted, would cause irreparable damage and absolute chaos in industrial relations in the federal jurisdiction, particularly in those industries in which national bargaining prevails.

It is necessary to examine the record in order to have a clear understanding of events that led to the introduction of the Bill.

The Confederation of National Trade Unions is a Quebec-centred federation of unions in that province, and although its leaders imply that it is the sole legitimate

spokesman for the workers of that province, the statistics show that the membership of Canadian Labour Congress unions in the Province of Quebec is over 350,000—almost double that of the CNTU.

In Canada, the Canadian Labour Congress has, in affiliation, unions whose membership comprises 74 per cent of the total, while CNTU unions comprise about 11 per cent of the total.

In February of 1966, the Confederation of National Trade Unions presented a brief to the federal cabinet, in which criticism was directed at the structure of the Canada Labour Relations Board. The criticism was based on the claim that the CNTU should have equal representation with the Canadian Labour Congress in the composition of the Board, and considerable and perhaps justifiable criticism was directed toward the fact that CNTU had no opportunity to submit evidence in French. The latter matter has now been corrected. With respect to the composition of the Board, it must be understood that the Canadian Labour Congress has from the start had only two of the four employee members. The third has been, and still is, a representative from the Railway Unions, and the fourth from the Confederation of National Trade Unions.

It must be kept in mind, too, that the Canadian Labour Congress and the railway unions are national in scope, while the Confederation of National Trade Unions is not; and the Canada Labour Relations Board is national, having jurisdiction over those industries coming under federal legislation.

Another point that the Confederation of National Trade Unions has been pressing on is freedom of association. It claims that an individual should have the right to join an organization of his choice, an organization which reflects language and cultural heritage.

It must be understood that under the Industrial Relations and Disputes Investigation Act freedom of association is not absolute. It has been modified to the extent that although a worker may join a union of his choice, that union can become his bargaining agent only if it commands a majority among the workers in a bargaining unit. This arrangement

has been accepted in Canada because it has the clear advantage of stability in labour-management and inter-union relations. The employer deals with one union, which represents the majority of the workers in a unit. Inter-union rivalry is limited to certain periods specified in the legislation.

• 2100

A departure from this condition can lead only in one direction, fragmentation of bargaining units, and an increase in industrial disputes.

The CNTU has, since February of 1966, tried unsuccessfully to carve out of national bargaining units railway employees in the Province of Quebec. These attempts were defeated because the Canada Labour Relations Board did not consider the group of employees for which certification was sought as being "an appropriate unit for collective bargaining". In other words, the Board, in line with consistent practice, decided in favour of national bargaining units.

The tactics employed by representatives of the Confederation of National Trade Unions then became concentrated on efforts to change the legislation.

An *ad hoc* cabinet committee heard representations from parties concerned. Lobbying was carried on. The officers of the Confederation withdrew from participation in such federal agencies as the Economic Council of Canada.

Now we are confronted with Bill C-186, and the most obvious question that comes to mind is—why has the Government decided to introduce the legislation at this time? We believe we have already answered the question but we again repeat—because of political pressure brought to bear by, and on behalf of, the Confederation of National Trade Unions.

The Canada Labour Relations Board, under section 61(1)(f) of the IRDI Act, already has complete authority to determine whether any group of employees is a unit appropriate for collective bargaining. This authority permits the Board to establish bargaining units on almost any conceivable basis, geographical, regional, local or national.

The fact is, however, that the Board has, in the exercise of its power, refused

to fragmentize national bargaining units, and any reasonable-minded person can readily see the reasons for the Board's consistency in this respect. To have done otherwise would be to create complete chaos in industrial relations in an industry such as the railways.

The amendment to section 9 of the Act is in effect telling the Board that in the future it must recognize as being appropriate, "units" of employees on a local, regional, or geographical basis. In other words, the government has decided to implement a policy having for its purpose the fragmentation of national bargaining units.

It appears that the government has also considered the possibility of the Board continuing to adhere to the principle of national bargaining units, and so a provision is provided for appeals, which will provide the advocates of fragmentation of national bargaining units with a second chance should the first effort fail.

It has been stated that the establishment of panels of the Canada Labour Relations Board will lighten the workload of the Board. Such a suggestion is ridiculous because the Board presently sits only two or three days a month. On the other hand, should these amendments become law, the workload of the Board will inevitably increase, to say nothing of the workload that the proposed appeal procedure will create. It is a fact that any decision growing out of questions before the Board leaves at least one party dissatisfied, so it seems reasonable to assume that a great number of cases will be appealed.

The use of panels, as the Minister of Labour said, when speaking during the resolution stage of Bill C-186, is designed to give balance in representation on matters involving the Canadian Labour Congress and the Confederation of National Trade Unions. This statement confirms our view that the amendments were introduced as a result of pressure by the CNTU. The establishment of balanced representation will also remove objectivity from consideration of any question before a panel, and indeed clearly establishes that the members, other than perhaps the chairman, of a panel are to be considered as advocates on behalf of the group they represent.

The introduction of an appeals board, as proposed, would expose decision of the Board, or panels of the Board to appeal by Government-selected individuals, representative of neither management nor labour, who would be empowered to over-rule any decisions of the representative Board comprised of experienced management and labour people.

One can envisage a decision by the chairman of a panel of the Board being reversed by two government-selected individuals. To us it will inevitably create unheard of dissatisfaction and controversy.

What would be the consequences of fragmentation of national bargaining units in the railway industry? We are convinced that it would result in complete chaos.

Our unions have been successful in establishing national standards, thereby contributing in a significant way towards a reduction of regional disparities in wages and living standards. We emphasize that regional or plant bargaining would constitute a serious threat to these standards.

Seniority rules contribute to a greater degree of mobility in the railway work force than perhaps any other industry. The seniority districts within which mobility takes place have no fixed pattern, but vary in accordance with different factors and also differ as between non-operating employees and operating employees. However, the present seniority districts have been established as a result of collective bargaining between each of our member organizations and the respective railway companies, and are designed in the best interests of the companies and the individual workers involved.

Provincial boundaries for obvious reasons, particularly in the movement of trains, do not constitute a barrier to mobility as between provinces. Let us suppose that under the proposed amendments, an applicant union successfully carves out of a national bargaining unit in the railway industry, a unit of employees on a geographical basis that happens to coincide with a provincial boundary. It can be readily seen that the line of jurisdiction between the unions

involved would be that provincial boundary.

The results would be ridiculous to say the least. Mobility would be restricted, seniority districts changed, other working conditions and in the case of operating employees, the pay structure would be distorted. Crews would have to change at those locations where the jurisdiction ended for one union and began for another, bunkroom facilities would be required. In short, it would create absolute chaos in the industry.

Then too, it is not inconceivable that a division of jurisdiction at provincial boundaries could lead in the future to a desire by provincial governments to seek jurisdiction in the field of labour relations for those industries which are now under federal jurisdiction.

We have always taken satisfaction from the fact that there has been relatively few strikes in the railway industry. While the right to strike is an essential part of free collective bargaining, we have always been most reluctant to resort to its use. The record will clearly establish that in every instance in which it has been used, we were justified, as evidenced by the results.

The fragmentization of national bargaining units will expose the industry to the possibility of an increase in the incidence of strikes on a plant or regional basis.

Another matter that we are compelled to remind you of is the fact that your government is at the present time sponsoring a task force—I am sorry, this particular aspect was also included in our annual brief to the government. The reference should be to “the” government. It is not your government; it is “the” government. A task force which is engaged in what is without doubt the most intensive study of labour relations in its broadest aspects, ever to be undertaken in Canada. The task force has commissioned approximately 100 in-depth studies in connection with its assignment. The labour-management committee of the Economic Council of Canada expanded to include other individuals is acting in a consultative capacity to the task force. We view the introduction of Bill C-186 before the task force reports as being, at

the very least, premature. It cuts right across the very matters that are being studied by the task force, and could conceivably prejudice its work.

On the other hand, we have consistently pressed for legislation that would implement the Freedman Commission recommendations, only to be told that this and other related matters are to be studied by the task force.

It is rather ironical that the Minister of Labour has recently embarked on a program designed to produce a new role for his Department. He has announced that his department officials are holding meetings with representatives of labour and management in industries under federal jurisdiction, in the hope that new approaches and roles may be developed that are so essential in view of changing circumstances. We have already held meetings with the Minister and his officials in this regard.

One would think that in view of the fact that the railway industry comprises the largest number of employees under federal jurisdiction, the subject matter of Bill C-186 would have been most appropriate as a subject for frank discussions at such meetings, before it was introduced, but this was not the case.

We seriously question whether any useful purpose would be served by such meetings when the Minister, or the government, introduces legislation of such far-reaching and adverse consequences to both labour and management in the railway industry, without consultation with us.

We are most sincere in our protestations to you and wish to have our views clearly understood when we say that if the government persists in having Bill C-186 become law, then the government alone will have to accept full responsibility for the chaos and turmoil that will be the inevitable consequences.

Respectfully submitted by the officers designated on behalf of the CRLU. Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Gibbons.

I will now call upon Mr. Bill Smith, President of the Canadian Brotherhood of Railway Transport and General Workers.

• 2110

Mr. W. J. Smith (President, Canadian Brotherhood of Railway Transport and General Workers): Thank you, Mr. Chairman.

Gentlemen, this submission is presented on behalf of the 35,000 members of the Canadian Brotherhood of Railway, Transport and General Workers, the union representing the largest single group of workers on the Canadian National Railways.

During the course of your hearings on Bill C-186, you will no doubt receive a large number of briefs from labour organizations, a few supporting and most opposing this proposed legislation. There is a danger, therefore, that you will look upon the controversy engendered by this bill as nothing more nor less than an inter-union dispute. This would, in our opinion, be a tragic mistake. The fact is that Bill C-186, if enacted, would do great harm to Canada's economy and embroil the federal government in an endless series of industrial crises.

We do not deny that, in making this submission, we are motivated primarily by the possible adverse effects the bill would have on our union and our railway members. It is not so much that we fear the loss of any large number of members to rival organizations, but rather the unpleasant prospect of becoming vulnerable to raids on a local or regional basis. We can foresee the necessity of expending a great deal of our time, energy and finances in beating off these raids, to the detriment of our normal servicing operations.

Nevertheless, from the standpoint of the national good, the baneful effects of Bill C-186 on the economy far overshadow the tribulations it will inflict on any one union or group of unions. We sincerely believe that the changes in the IRDI Act proposed in this bill would create a situation bordering on chaos in the railway industry, and probably in other modes of transportation and communications as well.

Before examining the likely effects of the bill in detail, however, we should like to express our shock and amazement that such a piece of legislation was ever drafted and introduced in the House of Commons. Far be it from us to deny that improvements in the IRDI Act are needed. Our union, along with the CLC and many other CLC affiliates, have been proposing amendments to federal labour

laws for many years. Specifically, we have asked for changes that would prevent an employer from unilaterally altering working conditions during the life of a collective agreement.

Our pleas for such a constructive revision of the IRDI Act have gone unheeded. They have been ignored even though a commission of inquiry appointed by the federal government, headed by the Honourable Mr. Justice Samuel Freedman, issued a report making the very same recommendations. The reason we were given by government representatives was that a task force had been appointed to study the federal labour legislation, and that no amendments were contemplated until this task force had made its report.

Bill C-186 is a blatant contradiction of this avowed policy. It comes before the Woods task force has completed its investigation; it is a major revision of the IRDI Act; and it has been requested by only one labour organization representing less than 11 per cent of the organized workers of Canada, the Quebec-based Confederation of National Trade Unions. No other labour or employer group has asked for these changes. On the contrary, with only a very few exceptions, they are vigorously opposed to them.

The CNTU and its supporters in the government contend that the amendments contained in Bill C-186 are essential to assure French-Canadian workers freedom of association and the right to join a union reflecting their linguistic and cultural background. Their argument is that the present policy of the Canada Labour Relations Board concerning the integrity of national bargaining units constitutes a restriction of these rights.

Needless to say, we too believe in freedom of association; it was in the exercise of this freedom that railway workers all across Canada joined our union and other rail unions, combining their collective strength to win better wages and working conditions. What the CNTU is advocating, in our view, is freedom of disassociation—the right to splinter railway unions into a multitude of small bargaining units, thus dissipating the bargaining strength that only unity can achieve. Carried to its logical extreme, this policy could result in the creation of separate unions at every railway station, warehouse, and freight yard. Even if it led to only a few splits in national bargaining units, its effect could only

be considered as retrogressive, except by those who are actuated by narrow ambition and blind nationalism.

• 2115

We should like to point out, too, that, of the approximately 550,000 union members in Quebec, only about 200,000 are represented by the CNTU; the remaining 350,000 are affiliated with Canadian Labour Congress unions, casting serious doubt on the CNTU's pretension of speaking on behalf of Quebec labour. The CNTU is wont to picture these 350,000 CLC unionists in Quebec as straining to burst their bonds and flock to the CNTU, but the bonds of national certification restrain no more than 50,000 or so who come under federal jurisdiction. The other 300,000 are under no such real or imaginary restraint, yet in the past seven years the CNTU has managed to attract less than 15,000 of them. These facts hardly jibe with the CNTU's charges that legislative barriers alone are keeping CLC unionists in Quebec from massive defection.

The achievement of national bargaining rights by the railway unions and others under federal jurisdiction was gained with the acquiescence—indeed, the enthusiastic support—of the workers involved in all provinces. Workers are well aware that the larger the bargaining unit, the greater its bargaining power and the more extensive its bargaining gains on their behalf. If the railway workers of Canada have any regret it is that they are still divided among 15 different unions; the last thing they would want would be an additional fragmentation on the basis of language, race, or region.

The negotiating performance of the rail unions under national bargaining speaks for itself. Although prevented from exercising their full economic strength by government intervention, they have won outstanding gains for their members. They are especially proud of their success in establishing uniform rates of pay and working conditions for all railway workers, no matter where they may live in Canada. The railway worker in New Brunswick, Newfoundland, or Manitoba receives just as much money for doing the same work as his counterpart in Toronto, Montreal, Windsor or Vancouver. In a country which is plagued by depressed areas and an inequitable distribution of income, the contribution of the railway unions toward

rectifying this economic imbalance and helping to build national unity is of major significance.

These benefits of national bargaining, of course, have been enjoyed to the full by Quebec railway workers, no less than by those in other provinces. They have shared in the gains won through national bargaining because they have been an integral part of the bargaining unit, because they have joined with their English Canadian compatriots in pursuing a common objective. They have participated fully in the affairs of their union, and many have risen to positions of influence within the labour movement. In fostering this spirit of co-operation and mutual trust, the railway unions have helped immensely to build national unity and held the members of our two founding races together in a common cause. We have no hesitation in asserting, therefore, that in threatening to disrupt national bargaining Bill C-186 is destructive and divisive. It is inimical to the best interests of the nation.

Bill C-186 would make three major changes in the procedure and composition of the Canada Labour Relations Board. First, it would empower the Board to grant certification to an organization representing only the members of a local or regional unit of a nation-wide employer, such as Canadian National Railways. Second, it would enable the Board to strike off panels consisting of three members, to be endowed with all the powers now invested in the full Board. Third, it would add to the Board an appeal division, to which parties dissatisfied with the Board's rulings on the appropriateness of bargaining units could appeal, such division to consist of "two other persons representative of the general public", plus the Board Chairman or Vice-Chairman.

The rationalization for all three amendments is so weak that it is difficult to treat it seriously. The first revision is totally unnecessary, since the CLRB already has the authority to define an appropriate bargaining unit as it sees fit. The Board has simply not chosen to exercise that authority to allow the fragmentation of national bargaining units. In all cases where a rival union has sought to obtain certification for a minority of members in such a unit, the Board has rejected its application—not because it was bound by law to do so, but because of its conviction that to grant such certification would be detrimental

to the workers and the industry concerned. This was, and still is, the belief of the great majority of Board members, all of whom—apart from the Chairman—have broad experience in industrial relations, either in labour or management. They have come to the conclusion that national bargaining is a vital stabilizing force in the economy, and should be preserved. They have not ruled out the possible transfer of employees from one union to another, but they have insisted that a union wishing to take over a national certification must sign up a majority of the entire membership, not just a majority in one province or one community. This eminently sane and fair policy has been approved by all but a handful of unions and employers.

• 2120

The insertion of the new definition, although permissive, can only be construed as an affront to the CLRB's judgment and a repudiation of its long-standing constructive policy.

The explanation given by government spokesman for the new clause providing for three-man panels is that this device would allow the Board to handle a greater volume of business more easily and quickly. Unless it is anticipated that the Board's workload will be greatly expanded as a consequence of the proposed revisions, the provision for panels must be regarded as wholly superfluous. The CLRB is scheduled to meet only a few days a month, and normally has so little business coming before it that it can usually process it all in just one day each month. The Minister of Labour has stated that the use of panels will permit more equitable representation of the CNTU in matters involving a dispute between that organization and a CLC affiliate. We are not opposed to this principle, but we question whether it can be implemented by means of panels; all that would happen under this procedure, in our view, is that the CLC and CNTU representatives would cancel each other out, leaving the decision to the Chairman.

The establishment of an appeal section is the crowning folly of this legislation. It violates the basic tenets, the very foundation, of all accepted labour relations boards everywhere. In every country in which such boards are entrusted with the certification of unions, it is axiomatic that the board must be the sole and final judge of the certification process.

Any other method that would leave a board's ruling open to appeal to another tribunal would soon vitiate the board's usefulness and convert it into a meaningless preliminary step to final judgment.

It is true that appeals to the appeal division provided for in Bill C-186 are to be confined to Board rulings covering the appropriateness of bargaining units. Nevertheless, it is precisely this aspect of the Board's responsibilities that would most likely lead to the most appeals.

In effect, Bill C-186 is an open invitation to unions wishing to take over small geographical segments of bargaining units to help themselves; to carve out as small or as large a piece as they like, as long as it can be defined as "a self-contained establishment". The Bill further assures all such prospective raiders that, if the Board continues to adhere to its traditional policy of keeping national bargaining units intact, they can circumvent the Board by appealing to a new appeal division. This division, apart from its chairman, will be composed of persons not associated with either labour or management.

It should also be emphasized that this invitation is not directed solely to existing unions. Undoubtedly it was designed and tailor-made to fulfil the desires of the CNTU, but it would also permit groups of workers at local or regional levels within national bargaining units to break away from their parent union and set themselves up as separate bargaining entities. Since there are always pockets of discontent within any union, Bill C-186 would enable an ambitious demagogue in any locality to set up his own little empire. The proliferation of such fiefdoms in place of a single bargaining agency would convert labour-management relations on the railways and in other federally controlled industries into a state of sheer pandemonium.

It is no exaggeration to say that Bill C-186 is a formula for industrial chaos. It would replace the present relatively orderly negotiations every two or three years with a state of endless, uproarious bedlam. The prospect must send shudders up and down the spines of employers affected by this Bill; and no doubt they will be conveying their alarm and dismay to you in their own submissions.

• 2125

We find it highly significant that the federal government, when it enacted legislation last

year conferring collective bargaining rights on its own civil servants, carefully predetermined the size and scope of the bargaining units on the broadest possible scale. This legislation stipulates that a union wishing to represent the members in any of these civil service groups must represent a majority all across the country, not just in any one area. Obviously, the government recognized the need for engaging in national bargaining with its own employees, in order to ensure orderly negotiations and minimize disputes. It therefore based its legislation on the long-standing, tried-and-true policies carried out by the Canada Labour Relations Board.

Mr. Chairman, if I may interpolate here for a moment. I went into the history of this and found that a committee under the chairmanship of Mr. A. D. P. Heeney was advising the government on its policies and legislation in developing collective bargaining rights for civil servants and acting as a guide to the formulation of its policy. I quote the following from pages 30 and 31 of Mr. Heeney's Report of the Preparatory Committee on Collective Bargaining in the Public Service:

The history and existing pattern of employee representation was such as to make it inevitable that bargaining units based on a variety of conflicting principles would be proposed by organizations seeking certification as bargaining agents.

It goes on further to say:

In the absence of statutory guide-lines, the Board could find itself faced with a prolonged period of controversy and litigation. And the result could be a patchwork of bargaining units offering little hope of a stable and productive set of relationships and serving in the long run to introduce serious inequities in rates of pay and conditions of employment.

Those were the recommendations of the Heeney Commission. The government accepted them and adopted its legislation governing collective bargaining in the Civil Service.

Now the government, in an astounding display of inconsistency, is attempting to enact a bill which would destroy national bargaining and the degree of industrial peace it guarantees in those industries governed by the IRDI Act. How can the government reconcile such a monumental contradiction? How can it insist on enjoying the benefits of national bargaining with its civil servants while seeking

to take away these benefits from unions and employers in the private sector? We submit that this contradictory policy is completely unjustifiable, and indicative of either political schizophrenia or an effort to placate one small pressure group at the expense of the over-all economic welfare of the nation.

One of the more disturbing possibilities opened up by Bill C-186 is the fragmentation of existing seniority groups with accompanying adverse effects on the efficiency of railway operations and job security.

Broad seniority groups are a vital pre-condition for the effective introduction of technological changes, and in the highly competitive field of transportation such developments as dieselization, merchandise services, integrated data processing, and hump yards are the very factors making for a viable railway operation. Certainly, without the flexibility provided by extensive seniority groupings, the effectiveness of these developments, particularly the organizational restructuring of the CNR initiated in 1960, would have been considerably reduced. The report of the Royal Commission on Transportation handed down in 1961 was unequivocal on this point:

... the safe and healthy survival of any mode (of transport) depends upon two other factors about which public policy can do very little. These factors are, first, the pace of technological change, and second, the attitudes and abilities of management and labour to adapt in the face of increasing competition...

... Both management and labour must recognize that attitudes of rigidity will introduce inefficiency which will put the means of their livelihood at a competitive disadvantage to others. Inefficiency which results from unwillingness or inability to change can be as damaging to prosperous and healthy competition as technological lag or inequitable public policy... The consequence of such rigidities, should they affect the railways in Canada, would be profound indeed.

That is from the Royal Commission on Transportation, Vol. II, pages 277-8.

The specific implication of this, in so far as the railway work force is concerned, was contained in a letter dated January 27, 1961, from Mr. N. J. MacMillan, Executive Vice-President, CNR, to me as president of the CBRT, dealing with the need for drastic sen-

iority changes in order to pave the way for the proposed integrated express-freight service. I will quote briefly from the letter:

... Briefly, what we have in mind is a new type of service which will handle all other-than-carload traffic. It will be neither express nor l.c.l. freight as we now know them... We shall have one form of documentation for all this traffic, one set of rates and one l.c.l. sales force. To perform this integrated service, it is essential that there be one consolidated work force.

... We shall have to discuss with your Brotherhood, the questions arising respecting employees involved in the proposed consolidation.

Thus, seniority groups became the subject of negotiations with the result that what had once amounted to more than 1,000 seniority groups for the 24,000 railway members were consolidated into a mere 17 for the whole of Canada.

Quite obviously, any subdivision of existing groups as might be occasioned by the certification of the CNTU for any local group of railway workers would reintroduce those same rigidities which once threatened the railways' modernization program. It is our contention that, in order to make the railways a fully competitive mode of transportation, any future changes in seniority must be in the direction of full regional seniority groups, rather than in a reversal of the substantial achievements made since 1961.

• 2130

At the same time, the fragmentation of existing seniority areas would reduce the measure of job security currently enjoyed by railwaymen. Seniority itself is a form of job protection and, since a laid-off employee can only take an alternative job within his seniority group, it is evident that the broader the group the greater the element of protection. Under the present conditions, seniority groups extend, in most cases, over an entire region. This means, for example, that a worker displaced in Belleville or Ottawa can take another job opening up anywhere in the CN's St. Lawrence Region, which spans Eastern Ontario and most of Quebec.

There are more than 5,000 such employees in the St. Lawrence Region under our major agreement, 12 per cent of whom work outside

the Province of Quebec. Assuming that Bill C-186 would enable the CNTU to obtain certification for the employees located within Quebec, the existing seniority district would be divided, with the result that senior employees located outside the province would find the range of job opportunity only one-eighth of what it had formerly been.

In addition to this, the subdivision of existing seniority groups would have a detrimental effect on the nonoperating employees' job security plan, which was devised as a specific measure to alleviate the hardships resulting from job displacement. From the outset, the consolidation of seniority groups was seen as a basic prerequisite for the establishment of such a plan. Thus, when negotiations began in 1962, the railways informed the unions of their thinking on this subject in a letter dated February 9 which read:

... We contemplate proposals which will substantially improve stability in railway employment and, at the same time, accord management the required flexibility and mobility in the assignment and use of our work force.

The plan entails, among other things:

... Retention in employment of long-service employees;

... Amalgamation, consolidation and expansion as needed, of seniority groupings and/or agreements, and modifications where feasible, of existing classifications to ensure greater work opportunity to employees...

The letter was to Mr. F. H. Hall under the joint signatures of the Vice-Presidents of Personnel for the CNR and the CPR, dated February 9, 1962.

Bargaining took place on that basis, and the unanimous recommendation of the Conciliation Board which finally disposed of the matter, was for a job security program, one of whose objectives would be:

... The revision and adoption of seniority and other rules in order to facilitate reasonable mobility of workers, with the intent that long-service employees shall have a preferential right to other jobs that they are capable of performing.

In order to effect this, the board called for the establishment of a joint committee for the express purpose of making decisions on "... the amalgamation, consolidation and

expansion of seniority groupings and/or agreements". That is in the *Labour Gazette*, 1962, pages 1182-3.

Clearly, the job security plan is inextricably linked with current seniority arrangements and any retrograde step in this area would necessitate a renegotiation of the plan with an almost inevitable reduction in both the level of benefits and the number of those eligible for such benefits. Indications of the sort of effect that narrow seniority districts could have on the plan can be seen from any of the instances where organizational and technological changes have caused mass layoffs. One example will suffice.

During the last two years, the stores operation of the CNR at London, Ontario, has been phased out and, whereas in 1965 there were 131 employees with seven years seniority or more, there are now only 63. However, because the stores seniority district takes in most of Ontario and Quebec, approximately 30 per cent of these employees were able to exercise their seniority and transfer to CN stores in other cities. The important point is that, had the seniority district been restricted to the immediate London area, the employees would not have had the option of transferring, and men with a considerable amount of seniority would have been laid off. Clearly, the cumulative effect of a number of such occurrences across the country would be to place such a strain on the job security fund that the benefit level would have to be revised downwards.

In addition to losing their seniority and job security benefits, most railway workers would suffer financially from the elimination of national bargaining. Divided among scores of warring sectional groups, they could not possibly muster the collective bargaining power needed to maintain uniform rates across the country. The result inevitably would be widely disparate wage rates and a severe blow to national unity.

However, it would not necessarily take a breakup of national bargaining units to disrupt the present orderly tenor of railway negotiations. Mere passage of Bill C-186 would provide small regional groups within existing unions with a club to hold over the heads of union leaders. Although a minority, they could virtually dictate contract demands to the rest of the union, threatening to secede if they were not adopted. At present, the over-all demands represent a compromise

between the lowest and highest from across the country. The enactment of Bill C-186 would virtually dictate the adoption of the most extravagant and irresponsible demands; this would be the only means by which a railway union at the mercy of its component sections could hope to hold them together. The consequences, in terms of increased militancy and a higher incidence of both legal and wildcat strikes, might well be as disruptive of labour peace as if the disintegration of unions permitted by Bill C-186 actually took place.

We suspect that those responsible for drafting this Bill are completely ignorant of the complexities of labour-management relations in the railway industry. They are obviously not aware that a transcontinental rail network, in order to operate at all, must be assured of reasonably harmonious labour relations from coast to coast. A wildcat strike in any one area or community can paralyze the whole system. The infrequency of such disruptions is due mainly to the institution of national bargaining, and the discipline imposed by unions whose membership spans the nation. Cut loose from this discipline, local and regional groups of workers would be free to indulge in all kinds of unpredictable and irresponsible actions. A state of industrial anarchy might well ensue.

It may be thought that we exaggerate. Railway management spokesmen will confirm that we do not. But it does not take a particularly astute observer of industrial relations to foresee the repercussions of Bill C-186, if it should be passed. Supporters of the Bill point out that it does not make the breakup of national bargaining units automatic; it simply enables groups of members of existing unions to transfer to another union, or to set up a new union of their own, if the majority of them so desire.

True enough. But it must be remembered that the only reason a group of workers at the regional or local level would wish to change unions or establish a splinter union would be because they expect to gain more—financially or otherwise—from their new union than they now enjoy from their present union. This would mean that the CNTU, for example, in order to take over the majority of railway workers in Quebec, would have to promise them better wages and working conditions than their present unions could obtain for them. Some rather naive per-

sons have suggested that, if such a mass transfer to the CNTU took place, the CNTU would simply become another rail union, bargaining with the railways on the same basis as the others and sharing the same contract settlements. This is nonsensical. The CNTU could not expect to hold on to its new railway members if it failed to win more for them at the bargaining table than the other unions. On the other hand, the other unions would stand to lose even more members if they failed to match the CNTU's gains. The result could only be a bitter rivalry in negotiations that would inevitably lead to more frequent and more protracted strikes and disorders. With the Teamsters and other unions also carving out groups of rail workers, and independent railway unions springing up locally, the ensuing chaos would make it almost impossible to operate a dependable railway service.

• 2140

In addition to the confusion caused by multi-union rivalry, the tangled mass of conflicting union jurisdictions would impose an intolerable administrative burden on railway management. The mobility of workers from one location to another would be seriously restricted. Train crews, for example, would have to change at those points on the rail line where the jurisdiction of one union ended and another's began, instead of at a point commensurate with their working day and with the needs of the rail service.

These are some of the headaches and problems that Bill C-186 would inflict on the railway companies and railway unions. But because the ultimate responsibility for providing a nation-wide rail transportation system devolves upon the federal government, sooner or later all these new troubles will come before Parliament. We hear complaints from MP's because they are confronted with a railway crisis once every two or three years. If Bill C-186 is enacted, they will probably be faced with some kind of rail crisis every two or three months, or even weeks. Indeed, at the time of negotiations, we doubt if Parliament will be able to get much business done apart from passing special railway strike-ending bills. Again, of course, we are assuming that the federal government does not intend to allow the new rail unions spawned by Bill C-186 to exercise their right to strike to any greater extent that it has allowed the

existing rail unions to do so. We should point out, however, that the more fragmented the railway work force becomes and the greater the incidence of strikes, the more likely it will be that sooner or later one group or more will defy a government back-to-work order.

It has been suggested in some quarters that much of the envisaged confusion threatened by Bill C-186 could be averted by confining application of the Bill to the Province of Quebec. No doubt this arrangement would be acceptable to the Bill's chief instigators. We question, however, whether a piece of federal legislation dealing with a nation-wide industry could be restricted to one province. If it is intended, as its sponsors claim, to restore freedom of association to railway workers, how could this new "freedom" justifiably be given only to railway workers in Quebec? The answer, no doubt, would be to invoke the mystical "French Fact". But even if Bill C-186 were turned into a strictly CNTU or Quebec bill, the disruptive consequences in that province alone would be insupportable.

We can perhaps best sum up our opposition to Bill C-186 by labelling it a legislative Pandora's Box which, if opened, would loose a horde of unimaginable evils upon the industrial relations world. Your Committee is charged with the responsibility of recommending whether this box should be opened or not. For the sake of preserving at least the measure of industrial peace that now prevails in the railway industry, and other industries under federal jurisdiction, we urge you to recommend against the passage of this Bill. We sincerely believe—in fact, we know—that its enactment would set back federal labour relations 30 years or more. It would be a catastrophe, not just to our Brotherhood and other railway unions, not just to the industries affected, but to the economy and general welfare of the entire nation. Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Smith. I call on Mr. Charles Smith, Vice-President of the Brotherhood of Maintenance of Way, to give a brief summary of his position then we will ask some questions.

Mr. Charles Smith (Vice-President, Brotherhood of Maintenance of Way, and Chairman of Canadian Railway Labour Association): Thank you, Mr. Chairman and gentlemen. The brief submitted by the Brotherhood of Maintenance of Way employees is not very

long; it is only a five and-a-half page brief so that probably an attempt to summarize it...

Mr. Reid: Why do you not just read it the way your colleagues have?

Mr. C. Smith: If that is the wish of the Committee, Mr. Chairman; I am in your hands.

Mr. Lewis: It will probably take less time if you read it.

Mr. C. Smith: This is a brief on the subject matter of Bill C-186, presented by the Central Committee for Canada of the Brotherhood of Maintenance of Way Employees.

The Brotherhood of Maintenance of Way Employees, representing over 20,000 employees of the Track Maintenance and Bridge, Building and Structures Department on all railways in Canada, expresses to you their strongest opposition to Bill C-186 designated as an Act to amend the Industrial Relations and Disputes Investigation Act.

Our Brotherhood has consistently represented employees of the maintenance of way departments of the various railways since the first agreement was signed with the Canadian Pacific Railway in the early 1900's.

Agreements were negotiated with all railways which later, by government action, were consolidated into the present day Canadian National Railway System. These agreements were negotiated on a federal basis under the same basic concepts that were considered to be the norm until the introduction of Bill C-186.

In order to place in proper perspective our opposition to Bill C-186, it is necessary to review briefly the development of our Brotherhood in Canada.

Previous to 1922 and the railway consolidation we had System Federations established on the component railways, such as the Grand Trunk Railway, Canadian Northern Railway, Canadian Government Railway, Inter-Colonial Railway, Grand Trunk Western and others as well as the Canadian Pacific Railway; each system negotiating with the individual railway. Disparity of wage rates and working conditions was inevitable under these conditions and when government took action to consolidate the railways by forming the Canadian National Railways as a crown corporation, our Brotherhood immediately took the necessary action to consolidate our

System Federations. We were successful in unifying our operations to the extent that we developed three System Federations in Canada: No. 1, representing all Canadian Pacific Railway employees; No. 2, the Canadian National Railways Eastern Lines, and No. 3, Canadian National Railways Western Lines. Subsidiaries of the two major railways and also independent short line railways are represented by one of the System Federations.

We established a Central Committee for Canada composed of equal representation from each of the three System Federations for the purpose of conducting negotiations with the Railway Association of Canada which represents all railways. By so doing we were able to establish national standards of wages and working conditions for maintenance-of-way employees from the Atlantic to the Pacific, thereby contributing in a significant way to unity in the work force and stability in the railway industry.

This pattern of national bargaining is now well established and despite some pressure from isolated, extremely high wage areas, we firmly believe it is essential to maintain a national standard in the interests, not only of the employees and railways, but also of the country.

We view Bill C-186 as a carefully calculated attempt by a minority group to bring about the destruction of national bargaining units in the railway industry for their own selfish parochial interests. It is self-evident that this would not be advantageous to the vast majority of maintenance-of-way people; it would indeed be a most retrograde step in that it would destroy precedence and uniformity realized only after many hard years of experience, which has been gained under the policy of national collective bargaining which is presently contained in Section 9, clause 4 of the Industrial Relations and Disputes Act.

We cannot comprehend why the government would introduce a bill of this nature, the enactment of which would inevitably bring complete chaos and disunity in the ranks of both labour and management, without a request from either management or labour, except from a relatively small group, the CNTU, who refuse to recognize that national bargaining is essential to the welfare of the majority of the employees of the national or inter-provincial railways.

We regret that we are forced to the conclusion that political pressure, applied by the

CNTU made possible by the precarious position of the present minority government and its complete dependence on Quebec for its very existence, is the only answer to this question.

It is a sorry state of affairs when a government, in order to maintain itself in office, will capitulate to a radical vocal minority group and introduce a bill which is quite obviously detrimental to the vast majority of workers, as well as to management and Canada.

The Canadian Railway Labour Executives' Association, of which the Brotherhood of Maintenance of Way Employees is a member, is making a submission to you in which it deals with the proposals contained in Bill C-186 as to the composition of the Canada Labour Relations Board, the establishment of panels and also the provision for appeals. It would be repetitious for us to again deal with this question, other than to say that we support the argument of C.R.L.E.A. in its entirety.

• 2150

Suffice to say that in our opinion the Canada Labour Relations Board has over a period of many years discharged its obligations with wisdom and consistency and the introduction of Bill C-186 and its contents are a reflection on the personal integrity of members of that Board.

Our Brotherhood, in conjunction with other railway unions, expressed satisfaction when the Government established a Task Force to make an extensive study of Labour Relations. We were prepared to co-operate with the Task Force in any way possible, and have done so, and will continue to do so, if it has not been completely emasculated by Bill C-186.

The Task Force was well received by the majority of sincere, dedicated labour leaders and members, and the same is applicable to our union. We were being objective about it and felt that if the whole concept of the relationships between management, labour and government as applied to the automated twentieth century, and perhaps the automated twenty-first century, were being studied, then we were prepared to participate and learn from the findings that such a competent Task Force might bring forward. As we have said before, other than from one minority group and perhaps others who are unknown to us, there has been no pressure or agitation for

such a change as is contemplated by Bill C-186.

We believe it was highly unethical and, to say the least, premature for the government to take action on a subject which is clearly in the realm of study by the Task Force, before the Task Force makes its recommendations.

We suggest that the subject matter of Bill C-186 should even now be referred to the task force and no further action taken until the task force report is received.

Seniority provisions of our collective agreements are most vital to the welfare of our employees and one must consider the effect upon mobility if fragmentation of national units is encompassed under Bill C-186.

At the present time seniority is established on a division or areas basis and employees are free to move within such established seniority territory. If unable to exercise seniority on basic territory they are permitted to move to adjacent territory, and are advised of the employment opportunities on the adjacent territories. This creates a mobility that will become more marked and more essential to the Canadian economy as we proceed towards the twenty-first century. We feel that the collective bargaining unit or units as contemplated by Bill C-186 would have such a splintering effect on labour in general in Canada that the government should not proceed with this Bill until such time as a thorough investigation has been made of all facets of the Bill, and we would again reiterate that the matter should be referred for study to the task force.

If, as permissible under Bill C-186, different unions held certification and contracts on various parts of the railway, such mobility would be impossible and we would have endless confusion.

In essence, we believe that the present Board has complete authority to determine whether a group of employees is a unit appropriate for collective bargaining; the Board has exercised extreme wisdom and exhibited integrity of the highest standard.

Any attempt to interfere with or disrupt the tried and true formula under which this Board functions can only bring about chaos, labour and management unrest and a return to union rivalry with disunity and bitterness at the expense of management, employees and Canada.

Surely government should hesitate before exposing itself to accept full responsibility for

such retrograde action merely to appease a disgruntled minority which would sacrifice the welfare of the majority for what inevitably would be a temporary political advantage.

It would also seem that the government should consider all the constitutional implications that may be contained in the Bill which in our opinion appears to convert the Act to a provincial act, and as the announced constitutional conference is to be or has been held, it would in our opinion seem wise to await the outcome of such deliberations.

Submitted by the Central Committee for Canada, Brotherhood of Maintenance of Way Employees.

Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Smith.

Mr. Reid: Because it is about six minutes to ten perhaps a motion to adjourn would be in order, and we could begin the questioning when we meet these gentlemen again on March 7.

The Chairman: We do have six minutes left and Messrs. Munro, Régimbal and Ormiston have indicated they have questions. I think we could carry on for a while, Mr. Reid, if you do not mind.

An. hon. Member: Until eleven.

The Chairman: No, not that late.

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Mr. Barnett: Everything considered, Mr. Chairman, I am wondering if it is reasonable to proceed with questioning. If we start questioning now the proceedings obviously are going to be somewhat disjointed and incomplete. It seems to me that it would be more sensible to have an orderly period of questioning the witnesses on these briefs at a later time.

The Chairman: Mr. Barnett, you know that questioning is always orderly in this committee.

An hon. Member: Well we had a very good sample of that this afternoon.

Mr. Gray: Mr. Chairman, I would like to support Mr. Barnett's suggestion. Ordinarily,

I think that the presentation of the brief and the questioning on it should be during the same committee sitting so that the press and whoever else might be following our proceedings will have the benefit of both the brief and our questions probing its contents. However, because of circumstances beyond our control I think that Mr. Barnett's suggestion and that of Mr. Reid—to whom I would, of course, give priority of place in making the suggestion—should be followed at this time and that we should make an exception to our usual practice. But I hope that this will not create a precedent and that our usual practice of having discussion and questions on briefs will take place at the same time the briefs are presented so that the probing and testing of the views expressed will appear at the same time as the briefs.

The Chairman: Are there other briefs?

Mr. Gibbons: There are two other briefs, Mr. Chairman, and if I might be so bold, I suggest that they be printed in the *Minutes* so that when we come back for questioning the points of view raised by the other two briefs will be incorporated. They were not going to read their briefs in the interests of expediting the work of your Committee.

The Chairman: Yes, they will be incorporated.

Mr. Gray: The suggestion is very sound. As a matter of fact, they have all been distributed, I think some days ago, and I suspect that all the members of the Committee have had an opportunity to give them some study even before your appearance at this point.

The Chairman: That is right. I take it, then, that it is the wish of the Committee that we should adjourn now.

Mr. Munro: When will these gentlemen be back?

The Chairman: That has yet to be decided.

Mr. Régimbal: Should there be a recess in the meantime is it your intention, Mr. Chairman, to call the Committee in to hear the brief?

An hon. Member: Do not raise such questions.

The Chairman: I will take that question as notice.

Mr. Lewis: He is now qualified to be a minister in the House.

The Chairman: On behalf of the Committee, gentlemen, we thank you very much for your forbearance and patience. We will, of course, cross-examine later. The meeting is now adjourned.

APPENDIX VI

BRIEF

ON BILL C-186 FROM THE
QUÉBEC FEDERATION OF LABOUR
TO THE PARLIAMENTARY COMMITTEE
ON LABOUR AND EMPLOYMENT

Gentlemen:

May we first of all be permitted to introduce ourselves and to state that, as regards the case with which we are now concerned, this introduction is perhaps not just a mere formality. We are in fact convinced that if certain among you had drawn themselves a fairer image of what the Québec Federation of Labour is, of what it represents in that province, and the ratio of the trade union forces that exist there, we would not be here to discuss Bill C-186; it would not even exist.

The Québec Federation of Labour is a provincial trade union central, affiliated with the Canadian Labour Congress. It has some 200,000 dues-paying members, and represents from 300,000 to 350,000 unionists in the province who pay dues to the CLC. We therefore represent more Quebec unionists, and more French-speaking unionists, than any other labour organization in Québec. You therefore have allowed yourselves to be grossly misled if you believed that another central was better qualified to speak in the name of Québec's Francophone workers, and if certain of you based electoralist calculations on this assumption.

You may also have been deceived by an impression that the QFL is only a branch office of the CLC, and more its Québec spokesman than a spokesman for Québec's workers. The fact is that in the Radio-Canada affair, which is at the root of Bill C-186, the QFL adopted stands that were different from those of the CLC. While, during a period of two and a half years, the CLC was bound by its statutes to continue defending the IATSE, the QFL on the other hand successively supported the Canadian Television Union and the Canadian Union of Public Employees in three recruiting campaigns aimed at dislodging IATSE, which was more American than "international" and justifiably repudiated by the Employees of Radio-Canada. Therefore, we are well and truly the autonomous spokesman

for Québec workers as we submit this present brief to you.

As regards another aspect of the problem, the stands of the QFL were consistently at variance with those of the CLC and those of the CNTU. While the latter two centrals frequently injected the constitutional issue, we stuck constantly to the issue of the workers' interests and labour union effectiveness. As far as we are concerned, there is no question here of saving or destroying Confederation. We are simply defending the principle of the natural and essential solidarity of the workers against any manoeuvre aimed at division, whether it originates with a labour movement, a government, or management, or a church, or whether it is the joint aim of two or more of these.

In fact, we are so keen about this principle that we do not set aside the eventuality of an "international" bargaining unit, or of an "international" union of broadcasting employees, within the hypothesis of a Québec secession.

And, for the benefit of certain politicians who might be more concerned about their reelection than the interests of the workers, we would like to point out that for some months now the QFL star is in the ascendancy in Québec public opinion in the same proportion as that of its rivals is in decline. Quite apart from the principles involved, then, it is fitting to draw to the attention of unwary Québec parliamentarians that what might have seemed electorally astute even up to quite recently, could very well backfire today. We remain convinced that Bill C-186 is nothing but a political expedient, inspired at best by pure opportunism, but it is coming too late. Opportunism never constitutes a worthy political philosophy, but even less so when it is ill-timed.

The antecedents of Bill C-186 and the circumstances which surrounded its tabling in the Commons amount to a political scandal of

the first water, a vast undertaking in electoral blackmail and patronage well designed to spur the highest interest—barring an improbable royal commission—of university researchers in sociology and history. They will find themselves examining the biggest moral fraud perpetrated against Canadian Parliament in a long time. This Bill, just supposing for the moment that it were adopted, would go down in history as one of the most brazen pieces of political trickery of our time.

For if it is true that for some three years the television production department employees of Radio-Canada sought by every means to rid themselves of their bargaining agent, IATSE, it is false to claim that the employees in Quebec constantly wanted to obtain a separate regional bargaining unit and be represented by the CNTU. Indeed these Québec employees of Radio-Canada on no less than three occasions, with a majority of signed membership cards, joined Canada-wide unions which applied for cross-country certification, that is within the existing bargaining unit. The Canadian Television Union for its part was set aside due to a simple technicality. Its majority was never contested. Shortly afterwards, the Canadian Union of Public Employees, on the strength of a majority membership, saw itself opposed to IATSE in a vote of allegiance. It won the balloting hands down, including Québec, despite a vigorous boycott of the vote led by the CNTU with the support of Mr. René Lévesque, the on-time prestigious employee of Radio-Canada who is now leader of the Souveraineté-association movement. CUPE on that occasion fell just a few votes short of an absolute majority, and accreditation. Nor should it be forgotten that at this very moment the Canada Labour Relations Board has before it a second petition for country-wide accreditation by this union, which is supported not only by a majority of adherents throughout the country but also, and especially, by nearly 70 per cent of the Québec workers concerned.

We would like to stress that at no time during this inter-union struggle at Radio-Canada did the QFL give support to any union unless it was a majority union or in a position to rally a majority in Québec. We persistently discouraged the organizational ideas and efforts of any affiliate which appeared to us incapable of securing a major-

ity within both the country's main cultural groups.

If it is correct to state that a cultural problem arose in the minds of a number of Francophone employees of Radio-Canada, it is absolutely false to state that they held a separate bargaining unit to be the only answer. The truth is that the Canada-wide unions they joined on three occasions had proposed a solution within the existing unit: a bi-national structure providing the right of veto for each of the two big cultural majorities. It is astounding, to say the least, to find that a government so fiercely in favour of the constitutional status quo should prefer the trade union separatism whose germ is contained in Bill C-186, to the aforementioned valid solution of the inter-majority relations problem offered within a country-wide union. As for us, we can only see in this a political expedient aimed at appeasing a handful of separation-minded activists at Radio-Canada in order to better combat, at the constitutional level, the more profound aspirations of Québec.

Within the framework of this vast fraud that the Radio-Canada affair has been, there have also been attempts to convince Members of Parliament—and apparently the government has been convinced—that freedom of association is at stake.

We regard ourselves just as competent as any other labour organization to assess both respect and violation of workers' rights. And we can assure you that the union liberty of the Radio-Canada workers is not encroached upon by the existing bargaining unit; or at least no more than is the liberty of all workers subject to the North American system of monopoly of union representation, exclusive bargaining agent, which is not contested by any Canadian labour central, the CNTU included.

Moreover the author of the apocryphal Bill, Mr. Jean Marchand, personally went to the source of the difficulty when he said: "The problem that arises for the CNTU is the outcome of union monopoly." (*Le Devoir*, 22-11-1966). However the minister was careful to avoid condemning our trade union system, as he was to explain in a letter dated November 24th and addressed to the presidents of the QFL and the CNTU:

"At no time during the Conference," (at Québec), he wrote, "did I say that the system of trade union liberty as conceived by the

Europeans was superior to our own. There is even less question of my having said that we ought to abolish our system of monopoly of labour representation by adopting another conception... What I said in Québec was aimed at explaining how certain union situations are created in Canada whereby the freedom of choice of the workers runs into certain impediments, whereas this is not the case under the European system."

In fact, the freedom of association of Francophone employees of the television production department in Québec is no more compromised by this union system than that of Québec provincial civil servants, or employees of the Québec Liquor Board, or Québec Hydro, etc. Since the CNTU tried and succeeded partly in casting a shadow of guilt on Anglophone parliamentarians in connection with the falsified problem at Radio-Canada, there is good reason for your Committee to know that the Québec organized labour relations system is much the same as that of Ottawa; that the Québec Labour Relations Board functions in the same way as the CLRB; and that in Québec the CNTU has much the same philosophy as the QFL in matters of labour legislation.

Indeed, as recently as 1964, on the occasion of Bill 54, the two Québec centrals put up a common front and the CNTU, then with Mr. Marchand as president, raised no objection to the legislator removing the last vestige of union plurality within an enterprise, that is the provision which authorized the certification of a minority union for purposes of grievance procedure. And more recently the CNTU, like the QFL, agreed to renounce regional certificates at Québec Hydro with a view to the creation of two big provincial bargaining units, one for outside workers and the other for office workers. Even more than that, the CNTU itself, under the presidency of Mr. Jean Marchand, sought the creation of provincial bargaining units from the Liberal government of his time, for provincial white collar workers and employees of the Québec Liquor Board.

It should be noted that in the case of the civil service the CNTU secured provincial certification under the law itself, without having recourse to the QLRB, and that this allowed it to group Abitibi road workers and Québec Autoroutes Authority maintenance men who had previously belonged to the QFL. As little as three months ago the

legal adviser to a CNTU affiliate, Ghislain Laroche, raised the following opposition to a petition for certification made by QFL affiliate.

"We are also informed that Building Service has presented a distinct petition for certification to represent the kitchen staff at Maisonneuve Hospital. We maintain that this method of proceeding is irregular and means a *pointless splitting of the bargaining unit*.

"We contend furthermore that this procedure is followed for the purpose of *sidestepping the rule of the majority with regard to the employees as a whole who are subject to unionization in this hospital*."

As you can see, the two Québec union centrals adopt identical stands about the union system, and only opportunism can explain the CNTU's different attitude towards the single bargaining agent within federal institutions. The pressures it exerted on Québec members of the House do not arise from repugnance in principal at recruiting outside Québec, as witness its incursions in Ontario, but from the fact that its recruiting drives in federal institutions were led by a few separatist activists, and based on an exclusively nationalist propaganda.

The only thing the Canadian Parliament really is being asked to do is revolve the CNTU's loss of support in Québec, and notably at Radio-Canada, should the central seek the allegiance of the overall group of workers who are in the existing bargaining unit. This is what we call a false problem.

Just as the two Québec trade union centrals have essentially the same conception of the union system, so do the Canadian and Québec union certification bodies—the CLRB and the QLRB—have the same feelings about the splitting of existing bargaining units. In fact, a few years ago, the old Québec Labour Relations Board refused to split the bargaining unit of teachers employed by the Montréal Catholic School Board, even though the request was made by two distinct unions—one English and one French—for cultural reasons. As may be seen, the decisions of the CLRB with regard to splitting up existing bargaining units at Radio-Canada are based on a philosophy and tradition common to all labour Boards, and they even have had their precedent in Québec in connection with a so-called cultural problem. Need we remind you that in the most recent case at Hydro Québec,

the Québec Labour Relations Board, quite to the contrary, decided to amalgamate a score of existing regional units into provincial bargaining units, and this at the request of all the interested parties including the CNTU.

In other words, there is nothing unjust or immoral about the CLRB position on this matter as far as the CNTU or the Radio-Canada employees are concerned. The CLRB position is the outcome of our union system which, as we have shown, has the support of all Canadian organized labour, the CNTU included.

If, as we believe we have demonstrated, CLRB decisions do not bring freedom of association into play—at least no more than is done by all other certification bodies in Québec and the rest of Canada—and if Canadian trade unionism as a whole, including the CNTU, has essentially the same views about our union system; and if the workers concerned at Radio-Canada have thrice demonstrated their acceptance of the existing bargaining unit, it can be legitimately asked why we are here at grips over this legislative monstrosity called Bill C-186. Since we have spoken of moral fraud and political deception, a word of explanation is in order.

Suffice it for us to remind you first of all that on January 25th 1967 the Prime Minister, Mr. L. B. Pearson said in reply to a question about "natural" bargaining units that at the time a team of experts (under Dean Woods) was conducting a probe in the field of labour law and it would be premature, without having its report, to say what the government would or would not do in this connection.

Yet on December 4th 1967 the Minister of Labour, Mr. J. R. Nicholson submitted the proposition leading to Bill C-186. A reading of the record of House of Commons Debates for that day would be sufficient to convince any neutral observer of the quasi-clandestine character of the operation that produced this Bill.

In the first place a minister (the Minister of Labour) defends his Bill by invoking problems of an administrative nature, and a surplus of work before the CLRB. Now statistics show that over a period of two years, from 1966 through 1967, the board held only 89 sessions at the rate of an average 3.7 days per month, and that it granted only 160 certifications, dismissed 70 petitions, allowed the withdrawal of 43 petitions, and ordered 64

union representation votes. Be it noted that the members of the CLRB have never complained of an overload of work, and this includes the CNTU delegate as well as the others.

In the face of an argument so feeble and manifestly erroneous, not to say dishonest, the Minister of Manpower and Immigration—whom we hold to be the "illegitimate father" of Bill C-186—went to the rescue of his unconvincing cabinet colleague and let the cat out of the bag: as far as he was concerned, this was a matter of correcting injustices that the CNTU supposedly was the victim of because of its minority position in the union delegation to the CLRB. Just as Mr. Marchand was frank about the reasons that were unadmitted by the government, so was he insulting and unfair to the members of the CLRB with regard to the facts he brought in support of his typical "village patron" thesis; to wit, that both the labour and management delegates to the certification body would be congenitally incapable of objectivity because of the interests they represented. But the facts precisely do contradict the minister's thesis, and we are entitled to inquire whether the mentality he attributes to the CLRB members is not exactly the one that impels him, as former CNTU president, in the matter concerning us at the present time.

If, as Mr. Marchand contends, the union members of the CLRB are incapable of objectivity because of their labour allegiances, the question arises whether the minister himself has conserved a certain attachment, sentimental or otherwise, with his former employer that could prevent him from being personally objective about the problem of Canada-wide bargaining units.

Regardless of this theorizing, one fact remains: That the officious Minister of Labour, that the unauthorized spokesman for Québec in the government, grossly deceived the House of Commons on December 4th 1967 during debate on what was to become Bill C-186. Mr. Marchand, in support of his thesis, declared as follows: "I have never seen, in the Canada Labour Relations Board, members of the Canadian Labour Congress voting against one of their unions concerned, when it was in conflict with another union. It happened that the members of the Canadian Labour Congress divided when they had to deal with two requests coming from their own central committee, but never in the case of one

request only coming from a union under the congress. Evidently, it is entirely coincidental."¹

Now an examination of CLRB decisions involving the CNTU during the years 1966 and 1967 shows that the minister either was lying or didn't know what he was talking about. In either case, he induced his colleagues into error. The facts are that the *Labour Gazette* and the minutes of the CLRB show that, during this period of two years, the CNTU submitted 29 petitions for certification, of which 18 were upheld, eight were rejected and three were withdrawn by petitioners. CLC affiliates intervened against 14 of these 29 petitions, and the CNTU nevertheless won in seven cases; that is in all cases which did not involve the splitting of existing bargaining units. Furthermore, during the nine months that the CNTU delegate boycotted sittings of the CLRB on orders of his central—this was from November 1966 to July 1967—the Board ruled on 11 CNTU petitions, of which six were upheld, three were rejected, and two were withdrawn by petitioner. In three instances the CNTU was certified, in the absence of Mr. Gérard Picard and despite the opposition of CLC affiliates. At Radio-Canada in August 1966, the CNTU was certified by the CLRB within a local unit already existing in Montreal, and this by virtue of a decision to which all labour delegates were party and whose effect was to dislodge a CLC affiliate.

As can be seen, the Minister of Manpower and Immigration seriously misled his House colleagues on December 4th last, and abused his prestige of one-time union leader by exploiting their good faith for purposes of union partisanship.

It is obvious that the career and labour union experience of Mr. Marchand made him a better prospect for Minister of Labour than minister of Manpower and Immigration, and that it was to spare him from involvement in conflicts of interest that he was given a made-to-measure new department. It is also patent that in the matter of bargaining units and of Bill C-186 the Minister of Immigration went beyond his attributes and flatly injected himself in the Labour post. And he beat all of his drums at the same time by also exploiting his title of leader of the Quebec caucus; he conveyed the impression to his government colleagues that Quebec and the CNTU were synonymous, labour wise, an assertion which, as we showed at the outset of this brief, is absolutely false. This is our authority for stat-

ing here that in this not particularly shining affair the Quebec spokesmen in the cabinet is trying to import to Ottawa the morals of the village patron and of political interference in administrative bodies of the state, which for a long time were the shame of our province, and vitiated the operations of our former as well as our new Quebec Labour Relations Board.

We do not intend to go on expounding about the basis of Bill C-186 since everything—or just about everything—has been said about the legislative monstrosity which is rocking the entire economy of our labour law both Quebec and federal.

Be it the matter of defining the powers of the CLRB in defining bargaining units; be it the dividing of the Board into "packed" panels to hear specific cases or the creation of an "appeal section" in the matter of defining units; be it the question of appointing a second vice-president, presumably French-speaking; we reject Bill C-186 in its totality as nothing more than a political expedient concocted in an atmosphere of blackmail.

Just like Mr. Jean Marchand refusing to "reserve" positions for French Canadians on the administration boards of federal crown corporations, we regard the appointment of a second French-speaking vice-president as an insult to the French-speaking workers we represent in Quebec. What we want are a competent president and vice-president, and we want bilingualism to be an essential element of competence at this level of responsibility in all federal administrative bodies. Let those who are unilingually English be replaced as quickly as possible by competent and honest bilinguals, let there be "bilingualization" especially in the administrative sectors of the Department of Labour which constitute the infrastructure, at present unilingually English, unless we are mistaken, of the CLRB. This would please us much more than the purely "symmetrical" presence of a French-speaking vice-president. May we remind you that the CLC itself recently recommended to the prime minister that a French Canadian be appointed to the vice-presidency, and that the government which spawned Bill C-186 did nothing about it. It was preferred, apparently, to spend an additional few thousand dollars in order to have the proposed act swallowed as another handy concession to Quebec demands.

¹ Commons Debates, December 4th 1967, p. 5002.

As for the article in the bill clarifying the powers of the CLRB in defining bargaining units, it is instantly apparent that there is superfluity, since the board has always held these powers.

There can be no other interpreting Article 9 of Bill C-186 than as an additional move to intimidate the CLRB, as a political interference with an administrative board of quasi-judicial character. We wish to stress in this connection that a recent study published by the Department of Labour on the matter of bargaining units—it is the work of Professor Edward E. Herman¹—far from anticipating the splitting of so-called national bargaining units, recommends the creation of an inter-provincial accreditation body in order to take into account the problems created by technological development and by the mobility of labour within Canadian enterprises that do not come under the jurisdiction of federal labour laws. We might add that such a proposition corresponds to the aspiration of not only the workers concerned at Radio-Canada, but especially the employees of Canada-wide firms in the steel, meatpacking and tobacco industries, etc. On the other hand, the splitting of national bargaining units meets only the sporadic and very ephemeral aspirations, as we have seen, of a limited and “shrinkable” number of Montreal employees of Radio-Canada.

The argument served up to us on this score is that Bill C-186 changes nothing, that the workers remain free to pick the unions wishing to represent them within country-wide units. This is rigorously true. Just as it is true that the workers should perhaps have the freedom, in a system of perfect union liberty, of not being represented by the majority union in the bargaining unit, or of being represented by a minority union, or of not paying dues to one of the existing unions. Yet it is well known that Canadian society as a whole, including Canadian labour without exception, subscribes to these restrictions on union liberty which constitute the foundation of industrial democracy. Union liberty would surely be better served, at least in theory, by union plurality within the enterprise, as witness the European, or at least the French, model, by the suppression of the certification process and the elimination of all coercive

forms of union security. Liberty might be better served, but certainly not the interests of the workers, this, society has recognized by passing labour relations laws, by creating labour relations boards, by proposing such types of union security as the Rand Formula. It is by thus recognizing the coercive right of the majority over the recalcitrant minority that society has “bought” a degree of industrial peace. We are not, for our part, prepared to effect a cut-rate “sale” of this under conditions that would mean a weakening of the economic strength of the workers. It is true that Bill C-186 changes nothing theoretically and that the workers remain free to stay on the road of union solidarity, but we say it is an incentive for division just as the adoption of so-called “right-to-work” laws in the United States which do not forbid the worker from joining the union are an encouragement for the workers to withdraw from their responsibilities to their working community.

The Backers of Bill C-186 may have given you the guilt-inspiring impression that for a public accreditation body to define a bargaining unit constitutes an attack on the freedom of the workers. You may believe that the workers once had, or that they still have outside Ottawa, the power to define their own bargaining unit. There is nothing to this, either historically or geographically. Suffice it to recall that prior to the adoption of labour relations laws and the creation of labour relations boards, the workers obtained their recognition directly from the employer, via negotiations, and more often following strikes for union recognition. And the bargaining unit, if it emerged at all from such primitive and brutal methods of securing union recognition, was more often than not defined according to the economic strength of the parties concerned. That it why the U.S. Wagner Act, the forerunner of our labour laws both federal and provincial, had to be awaited to help the advent of enterprise-wide, or “industrial” unionism, which completed trade unionism that, up to that time, had been alone in a position to wrest the employer's *de facto* recognition by force. But never, never were the workers able anywhere in North America to themselves define their bargaining unit, contrary to the current impression that the Radio-Canada affair might have created. The bargaining unit has always been defined either by the union and management parties together, or by a public accreditation agency

¹ Edward E. Herman, “Determination of the Appropriate Bargaining Unit”, Canadian Department of Labour, November 1966.

comprising a parity of representatives of labour and management.

It is a process of union recognition that manages at times to frustrate one or both of the parties, but which has nonetheless proven itself and which generally functions in a satisfactory manner as long as political power doesn't come along and knock its delicate operation out of kilter.

That is why we are fiercely opposed to the "appeal section" very likely made up of "political commissars" assigned to apply government directives, which is provided for in Bill C-186. For then bargaining units not only would not be defined by the workers alone, nor the workers jointly with management, but by the political authority out to achieve political ends dictated by circumstance. It could be predicted that, given time, we would not have only Canada-wide or regional bargaining units, but Liberal units, Progressive Conservative units and New Democratic units in accordance with the political conjuncture and the electoral interests of each party. This would mean a complete upheaval for the whole economy of our labour law which cannot, we believe, be concocted and legislated upon in a climate of moral constraint. We believe the government should have the good grace to await the recommendations of the specialized team under Dean W. H. Woods (to whom the government precisely entrusted the task of studying our labour laws as a whole) before it undertakes an adventure along the perilous road of State unionism.

As for the division of the CLRB into panels that can sit simultaneously in various parts of the country, we believe this is in no way necessary in the light of the alleged work burden falsely invoked by the Minister of Labour. It would open the door to patronage because of the very conception that the Minister of Manpower and Immigration has of the Board members' role. If, as Mr. Marchand proclaimed in the House last December 4th, the CNTU delegate is there essentially to safeguard the interests of his movement, there is certainly danger in letting him sit as the lone labour representative in a case in which his central has an interest. If the labour delegates are incapable of objectivity sitting four together, as the minister claims on the basis of union experience limited exclusively to the CNTU, how could they do better alone? If, furthermore, the CNTU delegate—sitting alone or with others—is there only to defend

the interest of his movement (as Mr. Marchand puts it) what kind of justice can be expected in the case of a petition bringing a CNTU affiliate into conflict with an independent union which isn't represented at all on the CLRB? Are we to behold the weird and disastrous spectacle of national and regional bargaining units coexisting side by side within federal institutions according as the petition for certification comes from a dissident group in British Columbia or Quebec, and depending on whether the decision is from a "CLC panel" or a "railway panel" or a "CNTU panel" of the CLRB? We believe that this would be installing arbitrariness and incoherence within the federal accreditation body; that it would totally discredit the Board in the eyes of the workers; that it would encourage the workers to short-circuit the CLRB and seek their own justice by resorting to the test of economic strength with their employer. We know the workers too well to believe them capable of respecting a law and an administrative board fallen from respectability.

The authority of the CLRB has already been seriously undermined, in the eyes of the workers, by the CNTU's smear campaign and especially by the biased and patronage-inspired conception attributed to the role of its members by the Minister of Manpower and Immigration in the House on December 4th last. Mr. Marchand reduced the role of public commissioners, bound by oath of office, to that of vulgar messengers representing the interest groups from whence they came. We must admit that we cannot understand how the CLRB members, both labour and management, have remained at their posts since this unfounded attack—barring proof to the contrary—on their integrity. And we firmly believe that the government, if it has no more faith than its Minister of Immigration in the objectivity of the present members of the CLRB, should despatch them without mercy back to their respective associations and demand that these groups delegate more honest representatives. Of course the CNTU delegate, who signs his dissident opinions on orders of his central, in contradiction to the jurisprudence he contributed to; who walks out of and back to the Board as the baton dictates, matches up quite well with the cartoon of a CLRB member as drawn for Parliament by the minister, and he should either withdraw or be dismissed by the government. But we remain convinced that the good

administration of a labour law, by the very fact that it must be founded on equity and good conscience, stems much more from competence and integrity of public commissioners than it does from structures, regardless of what they may be. That is why we believe that, barring a genuine work overload, the institution of CLRB panels also can await the recommendations of the Woods team.

In summary, Bill C-186 does nothing more than upset the economy of our labour law, without any justification, without prior examination, for the sole purpose of sparing the CNTU complete loss of face in the fight that it has dragged on for three years over a completely contrived and false problem. C-186 is a bastard text that doesn't admit what it wants to do, and isn't even certain it can achieve the purposes that certain exegetists, among them the former and current presidents of the CNTU, entrust to it. Hence the unbiased manner in which we combat it, in the name of common sense, the good name of our parliamentary institutions, the CLRB independence of political power, and the deepest and most enduring aspiration of the workers—those at Radio-Canada who have opted for solidarity three times in three years, and the thousands of others who have fashioned for themselves with pain and misery those Canada-wide bargaining units in sectors outside federal jurisdiction, and this despite provincial labour relations laws and, more often, their employers. If we have no intention whatever of representing workers against their will, as we have proven three times at Radio-Canada by supporting only such unions as were capable of rallying a Quebec majority, neither do we intend to let political power come along today, armed with a lame text of law, and foster division among the workers. We oppose Bill C-186 for the same union reasons that, if the occasion arose, would impel the CNTU to fight any measure aimed at splitting provincial bargaining units in Québec's public sector. We combat Bill C-186 in the same way as we would combat, presumably with the CNTU at our side, any bill indicating State complacency towards the individualist and irresponsible workers who would refuse to contribute to the financing of the majority union safeguarding his interests.

There have been invoked in support of splitting countrywide units, apart from the hodge-podge of talk about "natural" bargain-

ing units (another "bastard" concept), the existence of an autonomous French network, which is juridical and administrative fiction, freedom of association—(What crimes are committed in thy name!), the cultural problem. Now be assured of this: the cultural problem is of as much concern to us as anyone else, and if we were shown, for example, that a real cultural problem exists at Radio-Canada we would regard the matter as too serious to leave the solution to a small union not even having a voice in the management of the enterprise. Let it be proven to us that the French fact is under threat at Radio-Canada, that the Québec reality is neglected, and we would be ready to immediately recommend to you that the Québec and Francophone section of Radio-Canada be ceded to the State of Québec. But we will not let the national values of French Canada be prostituted as grounds for giving Québec employees of Radio-Canada over to the CNTU without giving Radio-Québec over to the provincial State. As far as we are concerned, we feel just as capable of successfully soliciting the allegiance of employees of Radio-Québec as we have that of employees of Québec-Hydro. If you therefore find there is a cultural problem at Radio-Canada, don't let us deter you. Settle it without hesitation, but not by half-measures nor hypothetical conventions. This is the condition under which we shall be able to maintain our respect for the federal Parliament.

In a word, we have the sad impression that the Parliament of Canada is in the process of having something put over on it, and we are ashamed, as Québec workers, of those who would have you believe that by adopting Bill C-186 you will be making a "concession" to us and protecting our union liberty. It just isn't so.

In the first place, we want nothing to do with the kind of burlesque "special status" whose only effect would be to diminish the Québec workers bargaining power when dealing with their country-wide employers. We know that we would be the victims of an even greater gap between our wages and those of workers in other provinces, were it not for the equalizing influence of cross-Canada bargaining units consecrated by the CLRB or imposed on management of the private sector by the workers over the years. We know that the "panCanadian" wage of each postal employee, of each railroad trainman, of

each automobile worker, of each meatpacking worker, of each federal civil servant, and the rest, is manna to the underdeveloped regions of Québec, and exerts an upward pressure on the regional wage structure. Québec workers have no intention of catering to the whims of a handful of fanatic political activists by sacrificing such benefits, nor overlooking that geographic mobility which, within an enterprise, technical evolution makes so imperative these days.

Neither do we want any part of an erroneous and abusive notion of union liberty that Québec labour (CNTU included) does not practise nor demand in Québec. Even without our having given them any encouragement whatever, there are more QFL partisans in the provincial public service than there are CNTU partisans at Radio-Canada and within the other federal institutions. Yet you have never heard a request from us—nor, indeed, from the CNTU—that the provincial bargaining unit be butchered up according to region or government department. The fact is that our rivals would justly accuse us of undermining union solidarity and sapping the bargaining strength of the civil servants if we undertook such steps in the name of union liberty. Yet this is exactly what the CNTU is doing at the federal level, and what Bill C-186 recommends to the Canada Labour Relations Board. Certainly our judicial system of labour relations involves what the Minister of Manpower has called “impediments” to union liberty, but not only with regard to the definition of the bargaining unit. Industrial democracy in this respect is similar to political democracy in that it imposes the will of the majority on the minority, which then becomes subject to the work system negotiated in its name by the majority union—and sometimes obliged to be party to it as a condition of employment, plus frequently being forced to pay union dues. The liberty of the workers therefore consists of either orienting a democratic union, or changing unions, or belonging to no union at all, which indeed is the case for 70 per cent of them. It is sufficient in our working society as in political society, that the majority respect the fundamental rights of the minority in order for democracy and liberty to be saved; and this is precisely the case, as we have shown, of all

the binational-structured unions whose services were suggested by the QFL to the employees of Radio-Canada.

We can understand that a certain number of members of the House, Québécois especially, and that a portion, and apparently a majority one, of the Cabinet might at some point have been carried away by the thesis expressed in Bill C-186. First, they were subjected to what probably was a brainwashing without precedent in the history of the Canadian Parliament—to a propaganda that played simultaneously on a pair of sensitive strings: everyone’s very legitimate desire for freedom, and a certain feeling of guilt toward French Canadians and Québec. Then along came a prestigious man of politics, a Franco-phone unionist from Québec, and “expert” on labour problems as well as the Québec problem. He inspired a feeling of good conscience in everyone by proposing a conception of union liberty that he never practised nor defended throughout his union career, and a solution to the national problem that he has fought ferociously since the outset of his political career. Since all members of the House had to make themselves specialists in labour relations and on the Québec problem overnight, it is no surprise that certain among them—and notably those from the same political party and that party’s government, or who represented Québec ridings—should have been inclined to rely on him and entrust to him the task of settling a ticklish political problem.

However, we believe we have been able to show you that this is nothing more than a matter of a contrived problem of union liberty and a false problem of relations between Ottawa and Québec. Those who are primarily concerned, at Radio-Canada, have found a satisfactory solution to their union representation problem; and the Québec Federation of Labour, which represents the majority of Québec Francophone workers, refuses to see in Bill C-186 a worthy concession to their national aspirations. Why Bill C-186 then? We continue to see it only as a bad political expedient improvised for purposes of labour patronage. This is the way the predominant sector of Québec labour will forever continue to view the bill if it is adopted. The bill is a

legislative aberration designed to discredit the federal Parliament, the federal labour relations law, the federal department of Labour and the Canada Labour Relations Board for a long time to come in the eyes of the majority of Québec's workers.

That is why we cannot insist too much before your Committee that it recommend the withdrawal of the bill or its complete rejection by Parliament.

The Québec Federation of Labour,
LOUIS LABERGE, President,
GERARD RANCOURT, Secretary
General.

OTTAWA, February 29, 1968.

APPENDIX "A"

25th January 1967

COMMONS DEBATES

Pages 12235-12236

LABOUR RELATIONS

MONTREAL—REFUSAL OF THE CLRB TO RECOGNIZE BARGAINING UNITS OF THE EMPLOYEES OF THE ANGUS SHOPS

Mr. Maurice Allard (Sherbrooke): Mr. Speaker, I address myself to the most honourable prime minister.

Since the Canada Labour Relations Board has just denied the recognition of natural bargaining units, in connection with the request of the workers at the Angus Shops, would the government agree finally to amending the federal law on industrial relations in order to allow such natural bargaining units?

The Most Hon. L. B. Pearson (Prime Minister): Mr. Speaker, experts are at present conducting an inquiry in the field of labour laws. Until such time as they have presented their report to the government, it would be premature to say what we will or will not do in this regard.

(Our translation)

ADDITIF "B"

FÉDÉRATION NATIONALE DES
SERVICES, INC. 1001 St-Denis,
Montréal 18 - 842-3181.

Montréal le 24 octobre 1967

Monsieur J. M. Warren
Secrétaire général
Commission des Relations de Travail
du Québec
355, rue McGill
Montréal, P.Q.

Sujet: Hôpital Maisonneuve
c.

Building Service Employees' Union,
Local 298

Réf: 8627-7

Cas: 2167

R. No. 2765-1967

Monsieur,

Dans ce dossier, l'Alliance Professionnelle des Paramédicaux (C.S.N.), qui détient un certificat d'accréditation à l'Hôpital Maisonneuve, désire faire les représentations suivantes à la Commission:

1. Le 4 octobre dernier, la Commission nous informait que Building Service avait présenté une requête en accréditation pour représenter:

«Tous les employés au sens du Code du Travail relevant de l'entretien ménager, ainsi que les photographes médicaux».

Nous sommes également informés que Building Service aurait placé une autre requête en accréditation distincte pour représenter les employés de la cuisine à l'Hôpital Maisonneuve. Nous soutenons que cette façon de procéder est irrégulière et morcelle inutilement l'unité de négociation.

Nous soutenons de plus que cette procédure est faite dans le but de contourner la loi de la majorité sur l'ensemble des employés susceptibles d'être syndiqués dans cet hôpital.

POUR CES MOTIFS, l'Alliance Professionnelle des Paramédicaux s'objecte formellement à l'émission d'un certificat d'accréditation au nom de Building Service et est prête à faire valoir ses représentations devant la Commission, si celle-ci le juge à propos.

L'ALLIANCE PROFESSIONNELLE
DES PARAMÉDICAUX

par: GHISLAIN LAROCHE
procureur

APPENDIX VII

BILL 186

"Federal Bargaining Units"

The Political Action Committees of the Montreal Labour Council wish, on this occasion, to present its contribution to the defense of the general interests of the wage earners and of the labour movement. We, of the Montreal Labour Council, believe that it is our duty to preserve the basic principles of trade unionism by working to uphold the federal bargaining units. We believe that it is urgent to defend those principles of unity which have marked the progress of trade unionism in Quebec and throughout Canada.

Bill 186 is of utmost interest to all wage earners

Bill 186, soon to be presented to the federal Parliament is of concern to every trade unionist, even if it is meant especially for a group of employees of the Canadian Broadcasting Corporation (a Crown Corporation). This Bill was drafted as a result of the many political pressures exerted by the CNTU during the past few years. This Bill has the effect of bringing the CLC and the CNTU into conflict, and also reveals two different concepts of trade unionism in a bi-national state.

Trade Unionism Unity or Trade Union Regionalism

The CNTU urges the federal Government to enact legislation favouring the fragmentation of the federal bargaining units. The strategy of the CNTU, as presented by its leaders, rests on a given form of trade union regionalism. The CNTU proposes the recognition of many bargaining units instead of one big unit. These units, so-called "natural units", would be based on nationality, culture or geographic locality. The Canadian Labour Congress, on the other hand, maintains that in the interests of all federal wage earners, federal bargaining units must be kept as they are.

In other words, the CLC believes that all the federal salaried people working in the same field of activity must remain united in a single bargaining unit, in order to face a single employer: the federal State, or a Crown Corporation such as the Canadian Broadcasting Corporation.

A Principle As Old As Trade Unionism Itself

Workers' unity principle without distinction of nationality, culture or locality is as old as trade unionism itself. The principle of solidarity of workers facing the employer, even when this employer is the federal State, is an essential part of the ABC of trade unionism. In most of the countries and particularly in Canada, the steady rise of trade unionism has been made possible by the creation of huge bargaining units. Today more than ever, the interests of the wage earners with regards to collective negotiation require the most complete organic unity. Whether it is for salaried people of industrial sectors or for functionaries of the federal State, working in the same field of activity, the rules of unity remain the same.

The Federal State-Employer

The federal State has under its jurisdiction, 216,000 salaried people working either for the State or a Crown Corporation, 38,000 of these are working in the province of Quebec. We believe that the interests of the population and that of the federal workers in particular, will be served better by the existence of federal bargaining units.

A Retrograde Policy

The analysis of arguments used by the leaders of the CNTU, in order to force the fragmentation of bargaining units, shows that they are ready to use all kinds of expedients. They seem to have only one thing in mind: get immediate advantages.

It seems that for some leaders of the CNTU, the main opponent is not the federal State-Employer, but is rather the federal bargaining units and the CLC. They do not even care what the consequences of such a division might be for labour unions in general and also for all the workers in Canada. The policy of the leaders of the CNTU with regards to bargaining units is a retrograde plan of division. This is all the more apparent, when we consider that the present trend in the labour movement is towards the creation of huge bargaining units. It is most evident that such units are more efficient and can guarantee greater trade union victories.

The Evolution Of Trade Unionism In Quebec

The evolution of trade unionism in Quebec indicates that wage earners are aware of the necessity of grouping themselves into more and more powerful bargaining units. It cannot be otherwise if we consider the ever increasing number of salaried people working for the State or employers that look more than ever like monopolistic capitalists.

A Single Bargaining Unit

Such trade union organizations as QFL, also the one that leads the Teachers' Organization, and even the CNTU, try their best to put into practice the principle of a SINGLE BARGAINING UNIT for each branch of industry or field of work. The CNTU for its part has never ceased to consider the provincial employees as a single bargaining unit. As for the employees of the hospitals under provincial jurisdiction, the leaders of the CNTU preach the necessity of a single bargaining unit. They are right in adopting this policy without paying attention to the existence of numerous English hospitals where the majority of the employees are of another culture and nationality than that of the majority of the citizens of Quebec.

The trade unionist teachers, for example, have learned in the course of their last strike, the necessity of a united front when facing their employer, the provincial Government.

Industry and The Building Trade

The present trend of grouping workers into huge bargaining units, is not limited to salaried civil servants and the public functionaries. This trend spreads over the whole field of wage earners in the automobile and the aircraft industry, also in the building trades. In Quebec, electricians, plumbers, sheet metal workers etc. are moving rapidly towards negotiation at the level of the building industry.

Against Fragmentation

Far from moving towards fragmentation, trade unionists are moving away from such fragmentation, faster than ever. This march of the trade union movement towards huge bargaining units is made necessary because of the general interests and demands of the workers as well as the development of the society in which we are living. We must add here, that in the Canadian context, if federal bargaining units did not exist, they would have to be created.

Elimination of the Low Salary Zones

One of the tasks of the trade union movement is to eliminate the low salary zones which are the basis of social inequality. Quebec is divided into numerous zones of different wages. This situation, where different wages are being paid for the same work has been an obstacle to the development of trade unionism as well as the general progress of society. In order to eliminate zones of different wages, it is necessary to bring to an end trade-union regionalism, whatever the form.

The only guarantee of progress rests upon reinforcement of the bargaining units, and not on their fragmentation. This principle of trade union solidarity which means so much to the workers of Quebec, keeps all its value when applied to the salaried people working under the jurisdiction of the federal State. The fragmentation of the present federal bargaining units can only lead to the division of trade union strength and to the creation of zones of different wages. It can only weaken the action of all the federal functionaries in general, whereas the functionaries in Quebec would be in a still weaker bargaining position, since they are in the minority.

One out of Five

The federal State has under its jurisdiction 216,000 salaried people, 38,000 of which are from the province of Quebec. These figures cover the employees of the Canadian Broadcasting Corporation, the railways, the national harbours and also those of the federal institutions. In most cases, the so-called "natural bargaining units" could not fulfil any other role than that of the minority units, representing as they do, one employee out of five.

The "Natural Units"

For some time, the CNTU's strategists have been calling for the fragmentation of the federal bargaining units of the Canadian Broadcasting Corporation and its replacement by numerous units. Their aim was to create many units, not based on the common interests of the salaried people, but on their nationality and culture. These proposals are contrary to the most elementary principle of trade unionism. To face the world of the employers, who do not limit themselves to any boundary, wage earners must unite their ranks and refuse to be divided into cultural or national groups.

We have a right to question where the CNTU leaders' theory are leading with regards

to negotiations between the Canadian Broadcasting Corporation and its employees.

The Role of Minority Units

The role of minority units is most limited. There have been many such cases in the past. Never in a single case have such minority units been able to obtain for their members better salaries or working conditions than those of majority units. Experience shows that in the most favorable cases, employees of the minority group have only been able, at best, to enjoy the gains obtained by the majority group.

Who Would Gain?

Would the existence of several units replacing a single group in federal bargaining be of advantage to the population at large? Instead of the possibility of a strike, there would possibly be a series of conflicts in the same field. Moreover, we are most pessimistic about results of a conflict in which wage earners would find themselves faced, at the outset, in a minority situation.

It is possible that the CNTU, as a trade union centre, would gain some new members by the organization of minority units, but such gains would be at the expense of the cially against the interests of the very units that they wish to represent.

Class Unity and National Aspirations

The strategy of the CNTU, in proposing bargaining units based on culture, etc., fails to recognize the principles of the labour movement. In retreating behind principles that they have never explained, they speak of the crying injustices of the Labour Relations Board against French Canadian unions.

Basing their claims on cultural unity they speak of constitutional rights of French Canadians. However, in the Canadian Constitution, now 100 years old, there is no mention of labour union rights, nor of principles governing labour union action. Those who propose cultural units of bargaining have no idea of labour management relations or they care nothing for the wage earners; and this, in our opinion is worse.

The Principle Born of Labour Struggles

The principle of unity arose from labour struggles. The value of this principle lies in the necessity for workers to present to management a united front in order to gain higher wages and improved working conditions. This principle that must be upheld by union-

ists is not a whim, subject to change at the pleasure of labour union leaders. It is a principle based on the struggle of wage earners of all nationalities and cultures. This principle is also universal, in the sense that it must be applied in all countries, whatever the divisions of nationalities and cultures. A century of labour union struggle throughout the world and in Canada has shown that it is not by dividing their ranks that unionists will be able to promote the cause of the Quebec nation.

Two Different Problems

Certain strategists of the CNTU have spread confusion by placing on the same footing two different problems. They have failed to understand that for wage earners, the necessity of class unity and the defence of national aspirations are two different vital necessities. Although interdependent, the case of the working class and that of the nation differ as to principles and the rules governing their particular development. Having confused working class unity and the defence of national aspirations, the strategists of the CNTU serve neither one nor the other.

As a labour union centre, the efforts of the CNTU to defend the rights of the Quebec nation, have been somewhat timid if not completely lacking. At the same time, within the labour union movement, they are attempting to use the national aspirations of Quebec workers, as a means to split the unity of the working class.

The CNTU Defends the CNTU

The decision of the CNTU to promote "natural units", based on region, culture and language do not serve the aspirations of French Canadians, still less the interests of Quebec workers. It is at least a cleverly camouflaged means of placing the particular interests of the CNTU above those of wage earners and Quebec in general.

Division of Management and Labour

Labour unionism, wherever practised, is based on principles. One of these principles is the collective defence of the common interests of a group of workers, regardless of nationality, race, culture or region. The defence of national aspirations, on the contrary, requires the alliance of the workers with other social classes of a same nation for the defence of its democratic rights and common values.

For organized workers, the division that exists in a society between employers and

employees takes on a character at once deeper and sharper than that of cultural division. Those, who for immediate gain or their own interests attempt to destroy labour union solidarity, do not love the working class.

Incompatibility?

There is nothing incompatible between the unity of the working class and the safeguard of national aspirations of French Canadian workers. These are two tasks to which workers must apply their best efforts.

On the federal level, one can very well be a part of a single bargaining unit for gaining better wages and, at the same time, work to defend the national aspirations of Quebec French speaking people. The only incompatibility that we find is that concerning the position of certain CNTU lawyers regarding "natural units" of bargaining. They base their claims on arguments dear to the hearts of an elite of the nationalistic Quebec bourgeoisie,

and they expect to be taken for serious labour union leaders.

Working Class Unity - Social Progress

We know that the leadership of the CNTU has organized all sorts of pressure to gain the support of the government. They have used all kinds of electoral tactics in order to put aside the principle of unity which is the basis of federal bargaining units. We believe that this principle is the foundation for social progress, and the corner stone of working class unity. The Political Action Committees of the Montreal Labour Council are meeting today to discuss this problem. We hope that we shall be able to work for the best interests of the Quebec people.

Political Action Committee of the MLC

President: Henri Gagnon

Secretary: J. A. Blanchard; Willie Fortin;
A. Boismenu; André Monacchio; G.
St-Amour.

APPENDIX VIII

BROTHERHOOD OF RAILWAY,
AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS,
EXPRESS AND STATION EMPLOYEES

Montreal 2, P. Q.
February 19, 1968

Mr. H. J. Faulkner, M. P.
Chairman

Committee on Labour and Employment
House of Commons
Ottawa, Ontario

and Members of the Committee

Gentlemen:

BILL C-186

The position of the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (BRAC) is full endorsement of the Canadian Labour Congress and Canadian Railway Labour Executives' Association representations to the Government.

Of necessity, the briefs of the abovenamed bodies could not concisely detail the specific problems foreseen by the individual labour unions should the Industrial Relations and Disputes Investigation Act be amended as proposed in Bill C-186. Such detail, we feel, should more properly be presented by the unions directly concerned.

In this connection, and dealing with the railway unions generally, the question of seniority rights is probably one of the most immediate and vital concerns.

Although seniority groups were, in early stages of the union organizing and negotiating activities, relatively local and confined in character, they have been gradually extended in scope by the recognized need for maximum protection for long-service employees. It is now general on the railways that seniority protects the individual against layoff to the extent that his service in his craft or class

pre-dates that of other employees in the same region (Pacific—Prairie—Eastern and Atlantic). The possibilities in breaking up this very complex structure through implementation of Bill C-186 are frightening, to say the least.

It should be emphasized that each of the aforementioned regions covers quite a wide area, e.g. British Columbia and Alberta—Saskatchewan and Manitoba—Ontario—Quebec and Maritimes—and consequently each region embraces high and low wage local areas—and these differences would be the basis of attack in raiding and other situations inherent in the concept of Bill C-186.

Spokesmen for the Government have stressed the point that though the Bill provides for recognition of employees on a local, regional, or other distinct geographical basis, such provision is not new as the Industrial Relations and Disputes Investigation Act already empowers the Canada Labour Relations Board to certify on such basis.

Recognizing and accepting this, the only reasonable conclusion is that the Bill proposes to nullify the Board's powers by transposing it into a committee, or group of committees, whose findings would no longer be decisions, but merely recommendations to ad hoc appeal panels with superior ranking.

Clearly, no labour union could be expected to accept an adverse decision on an application for certification so long as appeal procedure was available.

Just as clearly, management groups would feel obliged to ensure that their contentions regarding the consist of bargaining units were progressed to the fullest extent under existing legislation and rules.

Bearing in mind that the groups of employees potentially affected by the Bill are already highly organized, e.g. railways, airlines and communications, the inevitable result of its adoption would be raiding and attempted raiding, and under such circumstances it could only be expected that full use would be made of the appeal procedure provided in the Bill.

It is common knowledge that there are at least two situations on the Canadian Pacific system that would flare up immediately on passage of Bill C-186 in its proposed form. One of these is the dispute over representation of the employees at Canadian Pacific Angus Shops at Montreal. The other is the smouldering dispute that has existed in British Columbia in Canadian Pacific Merchandise Services since 1960.

In both of these situations considerable stress was placed on alleged denial of freedom of association. While no reasonable person can dispute the principle of such freedom it is manifestly wrong to pervert the concept to further a cause that could only lead to a limitation of freedom of association.

It can scarcely be questioned that the employees at Angus Shops have been free to belong to their own unions—that is, the union representing the majority of the employees in the particular craft or trade—and not just locally, but in a nation-wide unit. Surely this is a more mature concept of freedom of association than confinement to a local group, the scope of whose activities is limited by factors which have nothing to do with freedom, merely advantage.

Freedom of association cannot be reasonably interpreted to mean that each individual has the right to enjoy protection from and by his fellow workers while at the same time weakening their position in dealing with employers. Such an interpretation means sacrificing the welfare of the majority to satisfy a minority.

In the Canadian Pacific Merchandise Services case the issue was fractioning of a national bargaining unit, and though freedom of association was used as a reason for attempting to enable a dissident minority to take advantage of a favourable local wage situation, the Canada Labour Relations Board found that such a position could not be jus-

tified. It is a matter of record that the raiding and subsequent illegal strike resulted in the dismissal of over 300 employees, plus the unfortunate fact that divisions were created between individuals and groups.

It might be argued that the way to avoid such troubles would be to implement Bill C-186 and allow fractioning of national units at any place where local conditions appeared to warrant such a step, but it should be obvious that the overall appeasement of individuals and minority groups by sacrificing the rights of the majority is a weak method of dealing with troublesome situations, and one that can lead only to eventual disaster.

It has been with the greatest reluctance that the Federal Government has disposed of strike situations on the railways, and this only where no avenue of settlement could be found without special legislation. It does not appear reasonable that legislation should now be enacted that can have no other effect than to invite local work stoppages that have national repercussions, resulting in arbitrary and drastic corrective action to preserve the national interest.

Any suggestion that national bargaining on wages and working conditions can continue despite fractioning of national bargaining units is absurd. The very conditions that might be used to justify breaking down the national units would inhibit unified action in negotiations.

Under such conditions disputes would proliferate to the extent that Federal Government intervention would become the necessary and inevitable course to keep the railways operating, and though this has been unavoidable in some instances in the past, it has been a most distasteful and unpopular course for the Government.

It has been the policy of this union to work towards standard wages and working conditions across Canada, without regard to creed, colour or class and though some inequities remain, they are under constant attack and will be eliminated *unless* the entire national conception is destroyed by the ill-conceived provisions of Bill C-186, provisions that are divisive in nature and utterly narrow in their proposed application.

The experience of this union over a period of approximately fifty years has been that the most practical and effective way to serve the

interests of railway employees is standardization of wages and working rules, fringe benefits, broadening of seniority application, always with the objective of serving the interest of the majority.

It has not been easy to follow this policy at all times. There are inevitably situations developing, from time to time, and at various locations, where the easy way out would be to bow to local pressure, even though such action would eventually destroy the very cause for which we exist.

In summation, it must be our conclusion that this ill-conceived Bill is aimed at emasculating the Canada Labour Relations Board because the reasoning of that Board has not allowed the wholesale destruction of national bargaining units, whereas such destruction is justifiable or desirable in the minds of the authors of the legislation.

While a number of excuses for the legislation have been put forward by several Ministers of the Crown, it seems obvious that it has been left to the Minister of Immigration to candidly state the reason for, and aims of the Bill in the opinion of its authors. If I understand him clearly, the reason given for introducing Bill C-186 is that some unions (in particular the Confederation of National Trade Unions) cannot get a fair hearing

before the Board, thus the panel and appeal approach, and the aim of the Bill is to allow self-determination for the individual worker. This is equivalent to being for Motherhood and against Sin, but is also a broad condemnation of the Board which is not supportable and becomes nothing but hypocrisy when used against the Board's Reasons for Judgment in cases surrounding national bargaining units.

The Board in its present form does provide a fair hearing for any and all appearing before it, and I am sure all labour organizations represented here today, and the Board itself, are just as concerned with the right of self-determination as the Confederation of National Trade Unions and the Minister of Immigration. The Board, in its decisions, has shown an awareness of the chaos inherent in the thinking which produced this Bill. We therefore are most emphatic in our opposition to the proposed legislation.

Respectfully submitted on behalf of the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees.

W. C. Y. McGregor
International Vice President

APPENDIX IX
BRIEF
TO THE
HOUSE OF COMMONS COMMITTEE
ON LABOUR AND EMPLOYMENT
BY
DIVISION NO. 4, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO
FEBRUARY 1968

Submission by Division No. 4
Railway Employees' Department
AFL-CIO

to the House of Commons Committee
on Labour and Employment

Our association is comprised of seven Shopcraft unions—

International Association of Machinists
and Aerospace Workers

International Brotherhood of Boilermakers,
Iron Ship Builders, Blacksmiths,
Forgers and Helpers of America

Brotherhood Railway Carmen of America
International Brotherhood of Electrical
Workers

United Association of Journeymen and
Apprentices of the Plumbing and Pipe
Fitting Industry of the United States
and Canada

International Moulders' and Allied Workers
Union

Sheet Metal Workers' International Association

Collectively we represent more than twenty thousand railway employees throughout Canada. The great majority of our members are employed by Canadian National and Canadian Pacific and their subsidiary companies. The degree to which these employees are distributed across both transportation systems is illustrated by the fact that ten metropolitan areas in seven provinces include approximately 79 per cent of the total Shopcraft employment: St. John's—Newfoundland, Moncton—New Brunswick, Quebec City, Montreal, Toronto-London, Winnipeg, Calgary, Edmonton, Vancouver. The balance of 21 per cent is distributed throughout the country in small running points.

We are appearing before you today in order to state our strong opposition to Bill C-186, and with the hope that our special knowledge

about the potential effects of the Bill will help to persuade the Committee that it must never be enacted, in its present form.

In a general way, we could perhaps begin by expressing our support of the submissions of the Canadian Railway Labour Executives' Association and the Canadian Labour Congress. The Shopcraft Unions are members of both of these bodies, and as such took part in the preparation of their briefs to this Committee. We would like to ask, therefore, that the evidence of the CLC and CRLEA be taken as given with our full concurrence.

There are three specific reasons that justify separate representation before this Committee by the Shopcraft Unions in Division No. 4. First of these is the fact that the failure of an attempted raid of Shopcraft employees in Montreal by the CNTU was a primary motivation behind the introduction of Bill C-186. Second, is the effect that destruction of national bargaining would have on regional wage levels; and third, is the effect that regional units would have on job protection for senior employees.

On December 14, 1966, the Canada Labour Relations Board heard an application by the Syndicat National des Employés des Usines des Chemins de Fer to be certified as bargaining agent for an industrial group of employees of CPR at its maintenance and repair shops in Montreal. The proposed bargaining unit was to consist of some 3,500 employees, the great majority of whom were tradesmen and helpers belonging to Division No. 4, plus some 400 labourers in the International Brotherhood of Firemen and Oilers, about 150 store employees who were members of the Brotherhood of Railway and Steamship Clerks, and a small group belonging to the Brotherhood of Maintenance of Way Employees.

In its original application, and in subsequent argument before the Board, the sole justification offered by the union was that language difficulty made the existing representation inadequate and that the formation of a separate culture unit was therefore necessary. The applicant contended that the presently certified unions were not capable of settling the employees' problems, that as the majority of the employees were French Canadian they deserved to be represented by persons who spoke their mother tongue, and that the existing unions did not understand the realities of the situation. Finally, it was claimed that a cultural unit could justify, apart from all other considerations, the formation of a separate bargaining unit.

In the face of such serious charges one could reasonably expect the accusers to offer substantial evidence to support them, and to have rallied most of the sufferers to their side. But no evidence at all of this nature was furnished to the Board. On the contrary all of the evidence pointed to the opposite conclusion; that the employees were—and are—well represented and that the existing bargaining units were—and are—appropriate. The findings of the Board, as stated by its Chairman, A. H. Brown, are perfectly clear in this respect:

The evidence of the Intervener craft unions as to their close association as joint bargaining agents for the Shopcraft employees including those in the Angus Shops has been cited previously herein. The interveners have put forward evidence also as to the procedures for the handling of grievances of employees in the Angus Shops through the local lodge representatives of each of the associated craft unions in the shops for settlement at that level and the procedures followed in the processing of grievances unsettled at the shop level to higher levels of union and management representatives which are applicable without distinction to grievances of shop employees in railway shops across the system. The Interveners have given detailed evidence establishing that a substantial majoration of the officers of the local lodges encompassing the Angus Shops employees, and of the Brotherhood of Railway and Steamship Clerks with respect to local lodges encompassing the stores employees involved in this application, as well as the local lodge committeemen of these unions in the shops and stores, are French Canadian and that a considerable

number of the representatives who are not French Canadian are bilingual.

Evidence was also given of the considerable number of officers at regional chairman and higher levels of these unions who are French Canadian. The shop committees of these lodges are comprised of employees working alongside their fellow craftsmen in the shops.

No evidence has been furnished by the Applicant to indicate that the French Canadian employees in the shops or stores have been discriminated against or denied the opportunity or means of self expression or full participation in the conduct of union affairs including the handling and processing of their grievances as employees. In fact there was positive evidence given by the Interveners to the contrary.

In its appearance before the Board the CNTU-affiliated union stressed the cultural aspects of its application, but when its organizers were in the field, this point received scant attention. Instead, the raiding union sought support almost entirely on the grounds that it could obtain higher wages for Montreal-based employees than had been obtained by Division No. 4. This, then, was in effect a charge that the employees had been inadequately represented—but for the common collective bargaining reasons, not because of cultural or linguistic failings.

Now, we are quite prepared to agree that there are circumstances in which Shopcraft employees of the railways in Montreal could receive higher wage rates than they do at present. That they do not does not reflect upon the quality of our bargaining; rather it results from a conscious policy decision to achieve equal pay for equal work everywhere in Canada. Members of the seven Shopcraft unions in Division No. 4 are covered by a single collective agreement and tradesmen with like qualifications receive the same rate of pay regardless of where they work, be it Newfoundland, Quebec, or British Columbia. In practice this has meant that railway tradesmen employed in the Montreal area do not receive the top rates available in the same district for employees of equivalent skills in some other industries—although they are not at the lower end of the range either. Thus a regional unit bargaining solely for Shopcraft workers in Montreal might succeed in obtaining a somewhat higher wage level for its members. But if this were so, it would certainly be accomplished by depressing wage

rates in one or more other areas across the country. As a group of unions with national representation we categorically reject such a solution.

In its application to the CLRB, the applicant union proposed to create an industrial unit to replace the present association of Craft unions. In theory, presumably, this would have counteracted the maleffects of a smaller geographical seniority district with a larger grouping in the Montreal area itself. In practice, no such possibility exists. Shopcraft unions include electricians, machinists, carmen, plumbers, pipefitters, boilermakers, sheet metal workers, moulders and forgers, all of whom have served a difficult five year apprenticeship in order to learn their trade. There is no degree of permissiveness in seniority groupings that would enable a machinist to perform electrician's work or that would make it possible for a plumber to replace a

sheet metal worker, and so on. The proposal of the CNTU union was, in this respect at least, altogether illusory.

So far as its effect on seniority was concerned, then, the only consequence of carving a small regional unit out of Division No. 4, would have been a diminution in the protection afforded senior employees through having the right to displace junior employees in their seniority district. Since November 1, 1965, Shopcraft employees of Canadian Pacific have benefitted from regional seniority groupings that increased considerably the geographic boundaries within which they receive protection against lay-off. The maintenance and repair shops of CPR in Montreal fall within the Atlantic Region, which is itself comprised of four "basic seniority territories" and twelve "terminal seniority territories", as follows:

Basic Seniority Territory
Saint John, N.B.

Montreal Terminals

Laurentian

Farnham

Terminals Seniority Territory

McAdam
Bay Shore
Fredericton
Saint John
Aroostook

Montreal
Angus Shops

Québec
Trois-Rivières

Farnham
Megantic
Sherbrooke

(The same seniority protection benefits are enjoyed in similar Areas or Regions on the Canadian National Railways.)

When an employee is laid off from his classification at his seniority terminal, he may displace the junior employee in that classification on his basic seniority territory. If the same employee is unable to displace on his basic seniority territory he is permitted to displace the junior employee in his classification on the Atlantic Region.

Alternatively, employees on the Atlantic Region may claim preferred positions when they become vacant, firstly according to ter-

minal seniority, then according to seniority on the basic seniority territory and finally according to seniority over the whole region.

Again, when through an unusual development work is transferred from on seniority terminal, Area or Region to another, a sufficient number of employees have the opportunity to follow the work, carrying their seniority rights with them. This would be an extremely difficult benefit to arrange if the employees affected were covered by separate bargaining units.

A separate bargaining unit for Montreal would not only deprive Montreal employees

of the right to move within these other districts, but would also arbitrarily reduce the mobility of employees at the other points. And this would have been done without giving any consideration to the desires of these other workers. In this respect it is noteworthy that in its application the CNTU union claimed only 52 per cent of the proposed unit as paid-up members, while, if the normal definition of an industrial unit is applied, the union did not even have the support of a majority of the employees it sought to represent.

Finally, let us be perfectly clear. Division No. 4 is not unmindful of the importance of cultural and linguistic considerations in the trade union movement. In some circumstances these factors may be sufficient to jus-

tify breaking up an existing national bargaining unit. Bill C-186 goes far beyond this, however, and to the extent that the Bill is a reaction to the case we have been discussing, it has absolutely no foundation in fact.

We therefore urge the Committee to at least recommend amendments to Bill C-186 that will prevent the inevitable and unwarranted disruptions to labour relations in Canada that it now ensures.

Officers of Division No. 4

John H. Clark
President

Montréal, Québec

Jean-Paul Raymond
Vice-President

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

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UNIVERSITY

OF TORONTO

TUESDAY, MARCH 5, 1968

WITNESSES:

From the Canadian Labour Congress (CLC): Mr. Donald MacDonald, Acting President and Secretary-Treasurer; Mr. William Dodge, Executive Vice-President; *from the Public Service Alliance of Canada (PSAC):* Mr. C. A. Edwards, President; *from the Canadian Union of Public Employees (CUPE):* Mrs. Grace Hartman, National Secretary-Treasurer; Mr. Francis K. Eady, Executive Assistant to the President.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Barnett,	Mr. Lewis,	Mr. Nielsen,
Mr. Boulanger,	Mr. MacEwan,	Mr. Ormiston,
Mr. Clermont,	Mr. McCleave,	Mr. Racine,
Mr. Duquet,	Mr. McKinley,	Mr. Régimbal,
Mr. Gray,	Mr. McNulty,	Mr. Reid,
Mr. Guay,	Mr. Muir (<i>Cape Breton</i>	Mr. Ricard,
Mr. Hymmen,	<i>North and Victoria</i>),	Mr. Stafford—(24).
¹ Mr. Leboe,	Mr. Munro,	

Michael A. Measures,
Clerk of the Committee.

¹Replaced Mr. Patterson on March 1, 1968.

ORDER OF REFERENCE

FRIDAY, March 1, 1968.

Ordered,—That the name of Mr. Leboe be substituted for that of Mr. Patterson on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

TUESDAY, March 5, 1968.

(16)

The Standing Committee on Labour and Employment met this day at 11.12 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Hymmen, Leboe, Lewis, McKinley, Munro, Ormiston, Reid, Stafford—(15).

In attendance: From the Canadian Labour Congress (CLC): Mr. Donald MacDonald, Acting President and Secretary-Treasurer; Mr. William Dodge, Executive Vice-President; Mr. Joe Morris, Executive Vice-President; Mr. Andy Andras, Director of Legislation and Government Employees; Mr. Art Gibbons, General Vice-President.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

Mr. MacDonald gave an oral summary of the CLC brief, copies of which had been distributed to the members. (*The brief is printed as Appendix X in this Issue.*)

Mr. MacDonald was questioned, assisted by Messrs. Dodge and Morris.

With the questioning continuing, at 1.03 p.m., the Committee adjourned to 3.30 p.m. this day.

AFTERNOON SITTING

(17)

The Committee resumed at 3.38 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Émard, Faulkner, Gray, Guay, Leboe, Lewis, MacEwan, McKinley, Munro, Ormiston, Reid—(14).

Also present: The Honourable Bryce Mackasey and Mr. Whelan, M.P.'s.

In attendance: Same as at the morning sitting.

Mr. MacDonald was questioned, assisted by Messrs. Dodge, Morris, Andras and Gibbons.

It was agreed that a copy of a letter referred to by Mr. MacDonald, i.e. a letter from The Representative of the Teamsters union Eastern Conference

to the Honourable John R. Nicholson, be tabled and printed with the Committee's Proceedings. (*See Appendix XI to this Issue.*)

The questioning continued, and having been completed, the Chairman thanked those in attendance.

At 6.14 p.m., the Committee adjourned to 8.15 p.m. this day.

EVENING SITTING

(18)

The Committee resumed at 8.20 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Leboe, Lewis, McCleave, McKinley, Munro, Ormiston—(14).

Also present: Mr. Grégoire, M.P.

In attendance: From the *Public Service Alliance of Canada (PSAC)*: Mr. C. A. Edwards, President; Mr. J. K. Wyllie, National Vice-President; from the *Canadian Union of Public Employees (CUPE)*: Mrs. Grace Hartman, National Secretary-Treasurer; Mr. Mario Hikl, Legislative Director; Mr. Francis K. Eady, Executive Assistant to the President.

The Chairman introduced those in attendance.

Mr. Edwards summarized the PSAC brief, copies of which had been distributed to the members. (*The brief is printed as Appendix XII in this Issue.*)

Mr. Edwards was questioned, assisted by Mr. Eady.

The questioning having been completed, the Chairman thanked Messrs. Edwards and Wyllie who withdrew.

Mrs. Hartman summarized the CUPE brief, copies of which had been distributed to the members. (*The brief is printed as Appendix XIII in this Issue.*)

Mr. Eady made an additional statement.

Mr. Eady was questioned.

The questioning having been completed, the Chairman thanked the CUPE representatives for their attendance.

At 10.29 p.m., the Committee adjourned to Wednesday, March 6, at 3.30 p.m.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday, March 5, 1968.

The Chairman: Gentlemen, I see a quorum.

As you know, we have with us today members of the executive of the Canadian Labour Congress. Gentlemen, we welcome you. The chief spokesman this morning will be Mr. Donald MacDonald, Acting President and Secretary-Treasurer, who is on my immediate right, and in succession there is Mr. William Dodge, Executive Vice-President; Mr. Joe Morris, Executive Vice-President; Mr. Andy Andras, Director of Legislation and Government Employees, and around the corner the familiar face of Mr. Arthur Gibbons, General Vice-President. Without further ado I will ask Mr. MacDonald to begin.

Mr. Donald MacDonald (Acting President and Secretary-Treasurer, Canadian Labour Congress): Thank you, Mr. Chairman and Members of the Committee. In conformity with your suggestion, we have prepared a summary of the brief which has already been submitted to you and which I trust has been read by all members.

The purpose here is merely to outline in broad terms the points which we have made in greater detail in our original submission. We are, of course, prepared to discuss our original submission in detail.

We question, in the first instance, the very fact that a Bill such as this has been submitted to the House of Commons since the government through the Prime Minister had indicated on January 25, 1967, that it would be premature to amend the Industrial Relations and Disputes Investigation Act while the Task Force on Industrial Relations was engaged in its studies. We have come to the conclusion, and say so in our submission, that the Bill has been introduced solely to satisfy the representations made by the Confederation of National Trade Unions; that the Bill is partisan in nature; and that proposed amendments are harmful to the public interest.

Our submission deals at some length with the background leading to the introduction of

Bill C-186. We point to the fact that the CNTU has during the last two years or so subjected the Canada Labour Relations Board to attack and has raised doubts as to the integrity of the members of the Board and more notably the employee nominees. We make particular reference to an addendum to its Memorandum to the Government in 1966 in which the CNTU outlined its opposition to the Industrial Relations and Disputes Investigation Act in its present form and to the way in which the Canada Labour Relations Board had carried out its functions. We have quoted excerpts from the addendum and by way of rebuttal have included in our submission extracts from a brief which we submitted in 1966 to a committee of the federal cabinet.

• 1115

The items in the CNTU addendum quoted by us fall under two broad heads: the seeming injustice of requiring French-speaking workers to belong to the same bargaining unit as English-speaking workers, particularly where the latter may be separated from their French-speaking fellow-workers by great distances; and the imbalance which exists on the Canada Labour Relations Board as to its representative character with respect to employee nominees, and the consequent injustice which is suffered by the CNTU when it makes application for certification. In dealing with the first point of criticism, we reply that it does not make sense to divide workers into bargaining units on the basis of their language and culture. We assert that the history of trade union organization in Canada has been to organize workers regardless of national origin, mother tongue, creed or any other such distinctive characteristic. We consider that to separate workers by language as the CNTU seems to suggest is to create divisions which are irrational and impractical in their consequences. We go on further to say that if the proposals of the CNTU were to be carried through to their logical conclusions, the results would be disastrous so far as the organization of Canadian workers was concerned. We raise serious doubts as to whether

the CNTU itself has realized the full implications of its position and state:

We are inclined to believe that its views reflect an anxiety for an immediate organizational gain without regard to the long-term consequences either to itself, to organized labour in general, or to the workers of Canada.

With regard to the Canada Labour Relations Board, we asked that the CNTU be required to substantiate its accusations concerning the integrity of the employee nominees. There is an onus, in our opinion, on the CNTU to prove its allegations since the good name of Board members has been impugned. In our submission we cite data on applications for certifications involving the CNTU which demonstrate that, contrary to the opinions expressed by the CNTU, it has been eminently successful before the Board during the two year period which we used for purposes of illustration. We conclude from this evidence that the members of the Canada Labour Relations Board have acted with propriety.

We proceed from this to an analysis of the five amendments to the Industrial Relations and Disputes Investigation Act which are contained in Bill C-186. We deal with them in the order in which they appear in the Bill itself.

The first amendment is to Section 9 of the Act and is in our opinion one of the two major features of the proposed legislation to which we take the greatest exception. The amendment to Section 9, a proposal to introduce a new subsection (4a) would direct the Board to consider local or regional units as being appropriate in certain circumstances. We view this as in effect a modification of the broad powers which are vested in the Canada Labour Relations Board under Section 9(1) under which the Board is empowered to deal with appropriateness of the bargaining unit. We point out that the powers vested in the Board under Section 9(1) are similar to those to be found in the labour relations legislation of all other jurisdictions. In this regard we cite from a study on labour relations legislation made by Professor A. W. R. Carrothers, and we go further in citing specific jurisprudence on which the Board has based its decisions. We argue that the powers of the Board should remain untouched; that the proposed subsection (4a) represents a serious downgrading of the Board itself. We state in our submission that we are not opposed to local or regional units as such but that we are

opposed to a legislative enactment "which is coercive in its implications and partisan" in its spirit. We go on to say:

• 1120

the Canada Labour Relations Board must be free to make its findings on appropriateness on the basis of its evaluation of the facts as the law now permits it to do. It will no longer be free to do so if Parliament enacts Bill C-186 and more specifically subsection (4a) of section 9.

In our position on subsection (4a) we go on to point out that our objection is based not only on any possible damage which this amendment may do to affiliates of the Canadian Labour Congress but because the amendment is contrary to the public interest as a whole. The subsection may lead to the fragmentation of already existing national bargaining units or establish a multiplicity of units local or regional in nature where otherwise a single national unit would in all likelihood have been certified. We consider that this will lead to more industrial disputes than would otherwise be the case, particularly because of the nature of the large, country-wide employers which are typical under the Industrial Relations and Disputes Investigation Act and where national bargaining units have been established. We refer specifically to the Canadian National Railways and to the CBC. We have also drawn our attention to the brief submitted to you by the Canadian Railway Labour Executives Association which points out the other ways in which fragmentation of national bargaining units may lead to undesirable results, such as an inhibition of labour mobility and a breakdown in national wage standards which have existed for many years.

We point out in our submission that the Canada Labour Relations Board has not hesitated to establish local or regional units and that it has developed a rationale for national units on the basis of certain criteria. In this respect we quote extensively from a study of *Determination of the Appropriate bargaining Unit by Labour Relations Boards in Canada* by Professor Edward E. Herman. In our excerpts from Professor Herman's book are to be found also citations from the jurisprudence of the Canada Labour Relations Board and of its predecessor the Wartime Labour Relations Board. Professor Herman points out that:

Multi-location or system-wide bargaining units are a necessity in certain seg-

ments of the railway, shipping, trucking, airline, and broadcast industries, because of their geographical characteristics; that is, the certification of airline pilots on a single-location basis, instead of on a multi-location basis, would certainly be meaningless. However, in some industries under the jurisdiction of the CLRB, that is, Crown corporations, uranium mines, grain elevators, and flour mills, single-location rather than multi-locations certification orders are issued, and so far the Board has refused to issue either single or multi-locations certification orders to the banking industry.

The second proposed amendment to the Act is to section 58(3) which would have the effect of providing the Board with a first Vice-Chairman and a second Vice-Chairman in place of a single Vice-Chairman as at present. In our submission we indicate that we have no objection to this proposal if its purpose is to make the Board more bilingual in character than it is now. We point out that it would have been within the powers of the government to have made the Board more fully bilingual at any time since, in the final analysis, all appointments to the Board are made by the Governor in Council. We also draw your attention to the fact that the two nominees of the Canadian Labour Congress reflect the bilingual principle in themselves since one is English-speaking and one French-speaking.

The third amendment is to provide for a new section 58B under which it would be possible to establish panels or divisions of the Board for purposes of Board hearings. We find that two reasons have been advanced for this amendment. One is that the volume of work of the Board is now such that divisions will be required to expedite the number of cases which need to be processed. The other is that there is an imbalance of representation on the Board and that the Board must be balanced out in order to prevent any wrongdoing. We are in sharp disagreement with both.

• 1125

We point out that it is specious reasoning to suggest that the Board now has so much work that it cannot cope with it as a whole Board but must instead be divided into divisions. The actual volume of work is quite small in absolute terms, certainly by comparison with the work done, for example, by the Ontario

Labour Relations Board. We conclude, therefore, that no divisions are warranted for this reason.

With respect to the second reason, we challenge the assertion by the Minister of Manpower and Immigration that the Board's composition has produced "wrong-doing". The Minister has alleged that organizations which are affiliated neither to the CLC nor to the CNTU

were defeated before the Canada Labour Relations Board strictly because they did not have representatives to fight for their interests.

We say that this is not so and in our submission list a number of trade unions unaffiliated either to the Canadian Labour Congress or to the CNTU which in 1967 were successful in obtaining certifications, in some instances a number of certifications. We draw your attention to the fact that the Board in its present structure has been free of criticism almost since its inception and that the criticism was initiated by the CNTU only in the last two years or so when it was unsuccessful in carving regional units out of already existing national bargaining units. We make the point also that the employer nominees on the Board and the Chairman himself must inevitably be involved in any implications of "wrong-doing" and we suggest that it is inconceivable that the employer nominees or the Chairman would have stood idly by all these years while one injustice after another was being committed. We conclude from this that the proposed amendment is unnecessary and unjustified.

The fourth proposed amendment is to replace the present section 60(1) with another. This appears to us to be a useful amendment in that it would serve to clarify the authority of the Board and we take no exception to it.

The fifth and final amendment proposed in Bill C-186 provides for the insertion in the Act of a new section 61A. This would establish an appellate division to hear appeals against decisions of the Board in cases of applications as described in the proposed section 19(4a). We take strong exception to this proposal.

We point out that the proposed new section is novel in several respects. In the first instance, it sets aside section 61(2) of the Act which declares that

A decision or order of the Board is final and conclusive and not open to question, or review...

We go on to say that the authority of the Board is thus diminished and we point out that there is no other Labour Relations Board in Canada whose decisions as to appropriateness are subject to appeal in this fashion. In this regard we quote once again from the study made by Professor Carrothers.

We are critical of the proposed new section also for the reason that the appellate division of the Board will consist of a Chairman or a Vice-Chairman and

two other persons representative of the general public who shall be members of the Board for the hearing and determination of appeals under this section.

We go on to say that we are frank in saying that we consider this particular aspect of the section as a device to circumvent the Board when a decision has been made which is politically not palatable. We draw your attention to the fact that under section 61(2) of the Act the Board has the power to reconsider any decision or order made by it and to vary or revoke any decision or order made by it. The Board is therefore in the position to undo what it has done if satisfactory evidence can be adduced that it should do so. Another serious objection to Section 61A is the virtual certainty that it will lead to appeals which would otherwise not be made. The section "raises the possibility of delay and litigation where the criteria should be dispatch and finality. Delays in certification lead to delays in collective bargaining and in the conclusion of collective agreements. Industrial relations cannot but suffer as a consequence." We conclude from this and from the reasons given above that this suggested amendment to the Act is objectionable and should not be enacted.

• 1130

The final portion of our submission deals with the argument being advanced by the CNTU and by its proponents that Bill C-186 would somehow protect and enhance the right of association whereas at present that right is being undermined. We challenge this assertion. We point out that the Canadian Labour Congress itself has a vital interest in the right of association and has defended it on many occasions. We go on to draw your attention, however, to the particular nature of labour relations legislation in Canada and more specifically to the broad terms of reference of the Industrial Relations and Disputes Investigation Act. We point out that the Act already entrenches the right of association in Section

3(1). But we draw your attention to the fact that while the right of association is entrenched, it does not follow that the right of an employee to belong to the union of his choice is to be supplemented by his right to be represented by that union if that union does not represent a majority of the employees concerned in a given unit. We go on to say that "It has become a matter of public policy in all eleven jurisdictions that a trade union which can establish majority support in a bargaining unit which is appropriate for collective bargaining purposes is to be granted exclusive representation for the employees of that bargaining unit." We also say that "what this amounts to is that the absolute right of association which is significant only if it is accompanied by a similar right of representation has been modified in the interest of eliminating inter-union rivalry in the work place by granting exclusive bargaining rights only to that trade union which can establish a majority position within an appropriate bargaining unit." In this regard, we quote from the presidential address by Mr. Jean Marchand, the then President of the CNTU, to the 1964 convention of that organization. It seems clear from what Mr. Marchand said some four years ago that he did not then consider the Industrial Relations and Disputes Investigation Act or similar legislation to be as capable of injustice as he now makes out.

We point out in our submission that the Parliament of Canada itself in establishing collective bargaining legislation for the public service of Canada has provided for national bargaining units. While the Public Service Staff Relations Act provides an opportunity to carve smaller units out of larger ones, even such units may be national bargaining units themselves.

We finally and briefly turn to the question of representation on the Canada Labour Relations Board and the so-called imbalance in representation which is alleged to exist there. We point out that the Canadian Labour Congress on the basis of the most recent data published by the Labour Department had close to 1,500,000 members while the CNTU had about 200,000. The very difference in size in the two organizations would justify the difference in the number of nominees on the Board.

In conclusion, we suggest to you that Bill C-186 is legislation badly conceived and harmful as to its consequences. It is bound to result in a deterioration of the labour legisla-

tion now in effect and increase the possibilities of industrial disputes. For all these reasons we submit that the Bill should not be enacted. All of which is submitted, Mr. Chairman, on behalf of the Canadian Labour Congress.

The Chairman: Thank you, Mr. MacDonald. Do any of the other gentlemen wish to add or make any remarks before we get into cross-examination?

An hon. Member: No, sir.

• 1135

The Chairman: All right. Gentlemen, you have heard the submission. Are there any questions? Mr. Gray.

Mr. Gray: Mr. Chairman, I would first like to commend the delegation from the Canadian Labour Congress on the tone of their brief. Whether or not one agrees completely with every one of their arguments, I think they have been well-reasoned and they are thoughtful in tone. I think they have stated quite fairly opposite points of view and, in fact, they have given us a very valuable summary of the jurisprudence and the views of various scholars in the labour field.

I think some of us might regret that certain of the affiliates of the CLC did not follow the example of the parent body in the way they have prepared and presented their views. I think the comment in the brief about certain words being more suitable to pamphlets which are handed out at the plant gate in the heat of a labour dispute could possibly be attributed to some of the briefs we have had before us, even though one can understand the concern and passion which goes into these arguments.

As one who is very sympathetic to the general concept of the advantages that can come from national bargaining, and so on, but who is willing to look at this and listen, I look at and listen to other points of view. I would like to express a word of commendation on the manner and method of presentation of the arguments.

Having said that, I would now like to ask a few questions. First of all, Mr. MacDonald, on page 2 of your brief you indicate that you would be prepared in like circumstances to indicate what you consider to be deficiencies in the Industrial Relations and Disputes Investigation Act. As we have before us a bill aimed at amending the Act—and it might be argued that we therefore have the whole

question of amendments before us. I wonder if you could give us some of your thoughts on this matter.

Mr. MacDonald: No, at this time I am not prepared to do so because we have done extensive research on this and we are appearing before the Woods Task Force in the very near future—in a matter of days—to present our views on the over-all situation. We came here prepared to deal with Bill C-186 and I think we should confine ourselves to consideration of that piece of legislation.

Mr. Gray: Does any of this research that you have done, and the views you have derived from it, pertain to the jurisdiction of the Canada Labour Relations Board on matters of interunion disputes?

Mr. MacDonald: Yes, we have done research in that field.

Mr. Gray: And you say you are not going to present your views to this Committee on how the question of interunion disputes might better be dealt with by the Canada Labour Relations Board?

Mr. MacDonald: As I suggested to you, we came here prepared to deal with Bill C-186. We did not come here prepared to present our overall views, and frankly I think it is placing us at a very great disadvantage to ask us to do so at this time.

Mr. Gray: Yes.

Mr. MacDonald: Not only that, but I also know that this Committee intends to hear other representations this afternoon. It therefore indicates to me that there is limited time at our disposal. It would be more appropriately spent on consideration of the legislation.

Mr. Gray: I think that it would be possible for us to have an additional session this evening in the event we do not complete our discussion with you this morning and we have to go on into the afternoon. I understand your point of view but you have come before us objecting to the proposals contained in Bill C-186, with the possible exception of the appointment of the second Vice-Chairman and the clarification of the rules. This must mean that you have some other ideas; either that the existing Act is perfect or that it should be changed in other ways than those proposed by Bill C-186 to deal with the issues with which this Bill is supposed to be concerned.

• 1140

Even if I accept your argument that it would not be fair to you or to the Committee to ask you to cover the whole area of your research for your proposals to the Woods Task Force, I would submit, Mr. MacDonald, that it would be reasonable and very helpful to the Committee if you could present us with your ideas on the alternatives to the proposals in Bill C-186. After all, while the Woods Task Force are a very fine group, they do not have the same legislative authority and ultimate accountability to the public as the members of this Committee and the Parliament of Canada.

Mr. MacDonald: That is quite true. If we had been notified in advance—we were told that we were to appear on Bill C-186—that we were to cover the full scope of the Industrial Relations and Disputes Investigation Act, we would have come prepared to do so. It is evident, Mr. Gray, that you have read our brief and I want to thank you for that.

Mr. Gray: I do not think I am the only one.

Mr. MacDonald: But you quoted from page 2 where we set forth—we gave you copies of our brief in advance—that under the appropriate circumstances we would be prepared to go into the entire Act. We also indicated on page 2, from which you have quoted, that we are not fully in accord with everything that is in the Act at the moment.

Mr. Gray: Let me say this. I can see your point of view, and I think it would probably be unfair of the Committee to expect you to cover the whole ambit of the Act. There are many matters, such as rights of unions, where a business is sold, and things of that sort, which I know are of concern to you. But surely, even if you relate what I am bringing up at this time only to Bill C-186, you must have some ideas on alternatives. Otherwise you seem to be saying to the Committee that you are only coming here to oppose and not to put forward anything constructive to help deal with the issues that have given rise to this Bill.

Mr. MacDonald: We have said repeatedly, Mr. Gray, and we have stated our position very, very clearly in this brief, in our representations and our official pronouncements on it that we do not think there is any necessity for these proposed amendments to which we take objection. We are not advancing any alternatives because we do not

believe under the circumstances they are required. We have indicated in our brief the two sections of the which we believe are helpful.

Mr. Gray: Yes. I have already drawn them to the attention of the Committee. Are you suggesting to the Committee that the proposals you are going to make to the Woods Task Force will not deal with the issue of interunion disputes?

Mr. MacDonald: They might.

Mr. Gray: You are not willing to tell us what they are?

Mr. MacDonald: I do not think it is fair. Mr. Gray—as I have pointed out a couple of times before—to ask me to do it at this moment.

Mr. Gray: I am not talking about the whole range of your proposals. I am only referring to the proposals which deal with the issue of interunion disputes.

Mr. Lewis: But surely...

Mr. Gray: All right. I will...

Mr. Lewis: No, no. I am not necessarily disagreeing with Mr. Gray, Mr. Chairman but can we not bring this down to a point. I think there is some misunderstanding. As I understood the questions and answers, Mr. Gray wants to know whether the Congress is now prepared to give its opinion on whether the composition of the Canada Labour Relations Board, as it relates to interunion rivalry, is a problem which they recognize and have a solution for, and this is what this Bill deals with. That seems to me a different question than asking whether they might deal with interunion rivalry in a much wider...

• 1145

Mr. Gray: I did not mean in a general sense. I mean in so far as it pertains to the composition, operations and jurisdiction of the Canada Labour Relations Board. As Mr. Lewis was kind enough to suggest, the question of interunion rivalry extends through the whole ambit of labour relations, including that part not covered directly by collective bargaining legislation, and I thank him for making that clear. However, if the proposal which you are about to make to the Woods Task Force—where they deal with interunion rivalries, disputes or conflicts—touches in any way on the Industrial Relations and Disputes Investigation Act, and the composition

of the Canada Labour Relations Board and its powers and methods of operation, surely in addition to what you are going to say to the Task Force you have some obligations to tell us what they are.

Mr. MacDonald: If your questions have been designed to elicit a viewpoint from us with respect to the manner in which the Canada Labour Relations Board has operated in connection with interunion disputes, I would say to you that the Board has operated very, very effectively—very effectively—and think their record will prove that.

Mr. Gray: We may possibly want to look into what you are going to tell the Woods Task Force in some other way at some other time.

Let me ask you something else. I understand that within the Canadian Labour Congress you have a procedure for settlement of internal disputes. Could you tell the Committee what it is and how it operates? Do these disputes involve conflicts between two or more affiliated unions?

Mr. MacDonald: Yes. Actually it is normally referred to as our internal disputes settlement plan, as covered by Article 3 of our Constitution. It starts off from the premise, of course, that unions should not raid each other's memberships, and that they should regard their status as inviolate, as it were. When infractions occur, under the procedures the affiliates are obliged to submit their complaints and charges. These are put through a process of mediation at the first stage.

Mr. Gray: Who does that?

Mr. MacDonald: We have a panel of mediators across Canada who are appointed on a provincial basis and we have panels in each of the provinces.

Mr. Gray: Do these people come from the union movement or from outside it?

Mr. MacDonald: Yes, from the union movement. If these people are not successful in resolving the dispute, it then goes to an impartial umpire.

Mr. Gray: How is he appointed?

Mr. MacDonald: He is appointed by the Canadian Labour Congress.

Mr. Gray: Is he appointed ad hoc or is he called upon at any time a dispute arises? Is he more or less permanent?

Mr. MacDonald: No, no. He is on a continuing basis.

Mr. Gray: What is his name?

Mr. MacDonald: Mr. Carl Goldenberg, Q.C.

Mr. Gray: Yes. What does he do?

Mr. MacDonald: He hears the parties and, on the basis of the constitution, renders a decision which is final and binding on the parties.

Mr. Gray: You do not use a board which is made up of three members from one of the disputing unions and one member from the other?

Mr. MacDonald: No.

Mr. Gray: Why not?

Mr. MacDonald: I do not know if there is any particular reason. There has been a tradition, though...

Mr. Gray: This procedure is considered by the Canada Labour Relations Board to be quite satisfactory. Why did you not use this practice?

Mr. MacDonald: Not when it is made up of three people. I am sorry to differ with you on that. The Canada Labour Relations Board has never, never indicated that it is satisfactory to them to have disputes resolved by any board which is made up of three people.

Mr. Gray: No, no. I mean the present composition of the Canada Labour Relations Board is such that two of the people on the Board are, if not representative of the...

Mr. MacDonald: Yes, Mr. Gray, I am sorry.

Mr. Gray: As your brief points out, two of the people on the Canada Labour Relations Board are representatives of the Canadian Labour Congress.

Mr. MacDonald: No, sir. I am afraid I must differ with you in that respect. This is one of the myths that has obviously been built up for propaganda purposes by the proponents of this Bill both in Parliament and outside. I would refer you in particular to section 58B, Subsection (1) of the Industrial Relations and Disputes Investigation Act.

• 1150

Mr. Gray: Oh yes, I see.

Mr. MacDonald: This myth—and I think this is an appropriate time to explode it—has been deliberately created. It has not only

been created, it has been supported in representations before this Committee and in Parliament and outside Parliament. It is that the members of that Board sit as the apologists for their particular organizations. This is obviously not true, if you read the Act. I think there are in Canada something in excess of 7 million people in the work force. There is organized in the Canadian Labour Congress and its affiliated unions something slightly in excess of 1½ million workers, in the CNTU something like 200,000 and a couple of hundred thousand others in independent organizations, for a total of approximately 2 million out of the 7 million people in the work force. The members of that Board are sworn as representatives of the employees, and as employees are defined in the Act. I therefore must insist that the Board is not composed of representatives of the CLC and the CNTU...

Mr. Gray: Mr. MacDonald, would you look at page 11 of your brief. I believe you are quoting there from a submission which the Canadian Labour Congress made to the Cabinet. This is what it says:

In conclusion, we wish to say that the very fact that we have been brought here today and placed in the position of having to make these representations is to us great cause for concern. We see as the paramount issue not the continued existence of the Canadian Labour Congress, whether in Quebec or elsewhere. We are confident about our prospects of survival. Nor are we afraid that the good name of our representatives on the Canada Labour Relations Board is damaged beyond repair.

How do you explain the difference between what you said in your presentation to the Federal cabinet and what you have just told me?

Mr. MacDonald: At that time that word got in there inadvertently. If you will refer to the entire body of the submission which was made to this Committee you will see that in all instances our nominees are referred to exactly as that. However, I agree that in the submission to the Cabinet Committee there was an inadvertent slip and the word "representative" was used.

Mr. Gray: Did you write to the Cabinet afterwards to correct this slip, as you put it?

Mr. MacDonald: No, we did not.

Mr. Gray: At that time you stood by what you said?

Mr. MacDonald: We had no reason not to, but that was an unfortunate slip and obviously you discovered it when you read our brief. We were conscious of it when we inserted it in the brief. We fully anticipated it.

Mr. Munro: A Freudian slip.

Mr. MacDonald: Freudian? I find it hard to relate it to Freud. There might be an association, but it escapes me.

Mr. Gray: The doctors have a very strong union! However, Mr. MacDonald, even if we accept your explanation, does it not illustrate how other people of no less integrity and good will than yourselves could be concerned and have some question in their minds as to the manner in which certain of the employee representatives might be directing their thoughts in doing their work on the Board. You are a person who is very conscious of your role and very knowledgeable about the Board and the role of the people on it, and if you put forward a submission to the Federal Cabinet—something you mention in another part of your brief as being very serious and in which you refer to the employee representatives, or some of them, as being "our" representatives, representatives of the CLC—is it then not obvious that people of equal integrity and goodwill such as yourselves could have some legitimate concern?

Mr. MacDonald: There is no doubt whatever that it has been built up in the minds of a lot of people that all of the members of the Board are there to represent the interests of their particular organizations. What I want to say, Mr. Gray, is that despite any slip which you discovered there, and rightfully so—incidentally, neither we nor the Cabinet Committee noticed it at the time we did this...

Mr. Gray: That is why Parliamentary Committees are and can be very useful.

Mr. MacDonald: Yes. But the point that I wish to make in that connection is that in my opinion the record of the Board demonstrates beyond all question that the people on the Board certainly do not merely regard themselves as apologists for their particular organizations, whatever they might happen to be.

Mr. Gray: I will concede that the record demonstrates that. In conclusion, it is clear, however, that in setting up your internal dis-

outes procedure within the Canadian Labour Congress you did not follow the procedure which has existed for many years with respect to the Canada Labour Relations Board for settling—at least to some extent—similar matters in the public domain. Instead, you used an impartial arbitrator from outside the labour movement.

• 1155

Mr. Morris: There is no relationship.

Mr. Gray: Mr. Morris says there is no relationship, but is there not some analogy...

Mr. MacDonald: ... I will answer the question, if you will. In my opinion there is no analogy. On the one hand we have an internal disputes settlement plan whereby we try, to the best of our ability, to settle disputes that are created between affiliates of our Congress. We want to do it with dispatch, finality and fairness, and we have set up this system. On the other hand, the Canada Labour Relations Board does not exist for the purpose of reconciling or resolving disputes. As it indicates, it exists primarily for the purpose of establishing labour relations in an orderly manner by recertification of the appropriate collective bargaining units.

Mr. Gray: Mr. MacDonald, when two unions come before the Board and one says the bargaining unit should be A and the other says it should be B, is that not a dispute?

Mr. MacDonald: Not necessarily.

Mr. Gray: It is not? What do you call it?

Mr. MacDonald: No. There are many cases where it is not really a dispute, it is a competition...

Mr. Gray: There are cases when it is disputed.

Mr. MacDonald: Oh yes, there are cases where there is a dispute but the point is that it is not necessarily a dispute.

Mr. Gray: That is true, but there are cases where two CLC affiliates will come to the CLRB or a CLC affiliate and they will have very strong differences of opinion about bargaining units, and so on. Is it not a fact that the principal area into which the internal disputes mechanism of your body comes into play is where raiding situations arise? If I am not mistaken, a raid is an attempt by one union to carve out a group of members which is represented by another union that wants

to represent them, and this takes place at the time of or before an application to a labour relations board for certification of a unit to cover the group of workers who are the subject of the raid.

Mr. MacDonald: I am sorry, I could not agree with your description. Raids are of many types.

Mr. Gray: No, but this is one type of raid.

Mr. MacDonald: As I understand raids—and I think we know something about them in the Congress—it amounts to one union trying to take away from another union some of its membership.

Mr. Gray: Yes. But, Mr. MacDonald, would you not agree that there would be no point in doing this unless the union who was doing the raiding could get certification for a bargaining unit from a labour relations board?

Mr. MacDonald: That would be its ultimate aim, but one of the things that obviously escapes you is the fact that not all our units are certified nor do all our unions seek certification.

Mr. Gray: No, but you agree that the majority of them are, because you point out...

Mr. MacDonald: In most instances they would eventually endeavour to get certification or recognition, as the case may be, for the particular group of members they wanted to lift off the other union, yes.

Mr. Gray: You point out that one of the main purposes of a labour relations board is to prevent or eliminate recognition disputes, strikes, and so on. All I am trying to suggest, Mr. MacDonald, is that the issues which arise in raiding are to a large degree at least in my opinion—parallel to the issues which arise before a labour relations board when there is a dispute over the appropriateness of bargaining units, although not completely. I see Mr. Morris is shaking his head, but ...

Mr. MacDonald: I imagine that all of us who have had experience in this field would naturally shake their heads because we do not agree with you.

• 1200

Mr. Gray: Anyhow, your internal disputes mechanism involves settlement, by an impartial outside arbitrator, of conflict between two unions affiliated with the CLC.

Mr. MacDonald: One thing you have to bear in mind here is that such rating and the tactics employed in conducting a rate are a violation on the Canadian Labour Congress constitution; and this violation of our constitution is what we try to deal with, to get the matter resolved.

Mr. Gray: Thank you very much, Mr. MacDonald.

The Chairman: Mr. Munro?

Mr. Munro: Mr. Macdonald, to continue about the type of representation now on the Canada Labour Relations Board, you have said that these people are not representative of the CLC. As I understand it, four members of the Canada Labour Relations Board represent labour. Who are they?

Mr. MacDonald: There are Mr. Gérard Picard, who was nominated originally by the Canadian Catholic Confederation of Labour, and is now, of course, nominated by the CNTU; Mr. A. H. Balch, who was nominated by the Railway Running Trades; Mr. Arthur D'Aoust, who was nominated by the former Trades and Labour Congress of Canada, and, of course is now a Canadian Labour Congress nominee; and myself, who was nominated by the Canadian Labour Congress.

Mr. Lewis: Formerly the Canadian Congress of Labour, I suppose?

Mr. MacDonald: No; I was not on the Board.

Mr. Lewis: You were not on the Board?

Mr. MacDonald: No.

Mr. Boulanger: For clarification, did you say Mr. Arthur D'Aoust, or is it...

Mr. MacDonald: Arthur D'Aoust.

Mr. Boulanger: It is Arthur?

Mr. MacDonald: Yes.

Mr. Munro: You said the appointee from the former Trades and Labour Congress was who?

Mr. MacDonald: Mr. Arthur D'Aoust; and, of course, he is a nominee of the Canadian Labour Congress.

Mr. Munro: There are two right there; is that right?

Mr. MacDonald: Yes.

Mr. Munro: And there are up to four possible. You also mention the representative of the Railway Running Trades, which of course, are affiliated with the Canadian Labour Congress.

Mr. MacDonald: Partly.

Mr. Munro: Largely?

Mr. MacDonald: Pardon?

Mr. Munro: They are largely affiliated with the CLC, are they not?

Mr. MacDonald: Yes; largely is right; the majority of them are.

Mr. Munro: What are the mechanics of making these appointments? Does the Minister of Labour approach the CLC and ask it for nominees?

Mr. MacDonald: To illustrate, my predecessor on the Board was our former president, A. R. Mosher. When Mr. Mosher died the Minister of Labour asked us to submit nominees for a replacement.

Mr. Munro: But I am suggesting that as in the case of three appointees to this Board, apart from the CNTU appointee, and in terms of the mechanics of how it is done, the CLC is approached to submit nominees. You may, in turn, go to other unions, such as the Railway Running Trades, and ask for their recommendation, but you, in fact, submit the nominees' names?

Mr. MacDonald: No; I am sorry, Mr. Munro, but that is not right. There are two that the Canadian Labour Congress nominated. The Railway Running Trades have never been under any obligation to us...

Mr. Munro: And you have never had any say in the appointment at all?

Mr. MacDonald: No, none whatever.

Mr. Munro: No consultation has ever taken place between you?

Mr. MacDonald: None.

Mr. Munro: You mentioned to Mr. Gray that it was a slip that the words "our representatives" were used, but in practical terms surely you would not radically disagree with the statement that we have already established two; that the third represents unions largely affiliated with the CLC; and you really have on the Board what is tantamount to three persons who are sympathetic to the interests of the CLC?

Mr. MacDonald: I do not know what connotation that has. For example...

Mr. Munro: It is really just a simple question.

Mr. MacDonald: That they are sympathetic?

Mr. Munro: Yes; to the interests of the CLC. You would expect them to be sympathetic to the CLC?

Mr. MacDonald: There are many others who are sympathetic to the CLC and who are not necessarily representative of it.

• 1205

Mr. Munro: I know; but I am suggesting that two are there by almost direct CLC recommendation and that the one connected with unions affiliated with the CLC you would expect to be sympathetic with the interests of the CLC. In fact, not only on this Board but on other federal boards on which the labour representatives come from the CLC, or you are asked for a recommendation, you expect them to be sympathetic to the interests of your movement?

Mr. MacDonald: Certainly they are sympathetic; there is no question on that. But that does not cause them to violate their oath on appointment to the Board. This is part of the whole climate of misunderstanding and confusion that has been created about this Board.

Mr. Munro: All I can suggest to you on that score, Mr. MacDonald, is that I feel that we are being rather less than frank. I doubt that a nominee going to this Board, either directly appointed by the CLC or representative of a union connected with the CLC, who did not adopt a posture of sympathy with the CLC, would have much chance of survival for very long as an appointee to this Board.

Mr. MacDonald: I am sorry; I do not agree with you.

Mr. Munro: If he has come up through the CLC and his life has been connected with the CLC, he must be pretty sold on its operations. It would be very strange indeed if such an appointee's interests were not identifiable with those of the CLC, would it not? He would be a very strange type of person.

Mr. MacDonald: I regret that you think I am being less than frank. Frankly, I think that the questions and the way they are put contribute to the confusion and misunderstanding that exist with respect to the Board and its operations.

Mr. Munro: No; all I suggest is...

Mr. MacDonald: If the interference is, as has been stated by some people in and out of Parliament, that each of those on the Board votes for, and supports, the position of his association, I want to assure this Committee that nothing could be further from the truth.

Mr. Munro: All I am saying, Mr. MacDonald, is that here we have three men, two of whom come directly from the CLC and one, from unions affiliated with the CLC, who, presumably, would be in sympathy with the CLC, he has devoted his life to a labour movement which is part of the CLC. It would be very strange indeed—almost unimaginable—that he would get on the Board and suddenly forget what he has fought for all his life, which he has spent in a labour movement and in promoting the CLC.

Mr. MacDonald: There is no obligation to do it.

Mr. Munro: I am not speaking of an obligation. I am talking about what it would be reasonable to expect in such circumstances.

Mr. MacDonald: A reasonable man would expect that a member of the Board, having been nominated by a particular organization and placed on that board, would take his oath and then govern himself, in what he has to do, according to the legislation, the rules and regulations, the facts and the evidence.

Mr. Munro: Yes; but he also governs himself by principles that he has become convinced are correct throughout his life in the labour movement. If those principles are the ones adopted and advocated by the CLC, then he is going to push them on the Labour Relations Board, too.

Mr. MacDonald: I do not agree with you. The over-riding principle, Mr. Munro—and one which apparently escapes you—is the basic one encompassing honesty and integrity. I do not see any conflict at all...

Mr. Munro: But is there anything dishonest, Mr. MacDonald, about a man, once he is appointed to a board, pushing for the principles he believes in?

Mr. MacDonald: If they are in conflict with what he has undertaken to do, yes. If he tried to do anything contrary to the legislation, to the rules to the regulations, to the evidence, or to the facts, it certainly would be dishonest.

• 1210

Mr. Munro: I am not suggesting that they would necessarily be in conflict with any of the criteria set down to guide his judgment on any particular matter that comes before us. You are saying, because of our environment, upbringing or background, that we all have preconceived notions of what is right in any field, whether it be labour, management, law, or medicine, and that it would be normal for this man acting in all honesty to push for the same principles he has always pushed for, even once he is appointed to the Board. I would expect that these three men would advance the interests of the CLC because they believe in it, and I think any reasonable person would expect the same thing. In fact, because of the number of people you said yourself that the CLC represents in Canada in relation to other unions that are not connected with the CLC, I suggest that you are entitled to this type of representation.

Mr. MacDonald: I do not follow the question.

Mr. Ormiston: Mr. MacDonald, are you simply saying that these members can be sympathetic without being partisan.

Mr. MacDonald: Yes, that is what I am saying. I am not divulging any confidence when I say that many of the CNTU applications have been granted on my motion. As a member of that Board I have voted against CLC applications in favour of the CNTU when the facts and the evidence showed that that was the right thing to do.

Mr. Munro: Mr. MacDonald, all I am saying is that I do not consider my line of questioning and the implications contained therein any reflection on the integrity or the impartiality of the men on this Board. I personally consider it reasonable to expect this, and I would consider it very strange indeed if it were otherwise. However it does bring up the question of somebody appearing before the Board from a union that does not have adequate or near equal representation and in the hypothetical situation I am putting to you now such a union, which has differences with the CLC or a CLC affiliate, because it would be normal to expect that union representative to have the same opinions and feelings that I have just expressed, would have some doubts as to whether there would be a fair hearing. Now that union representative may, in fact, get a fair hearing. However we are talking about the appearances of justice, not justice

itself, and I would think that if he feels aggrieved, we can all, as reasonable human beings, see why he would feel aggrieved. If you were in the same situation I would think that you would probably feel the same way.

Mr. MacDonald: Just to give you the appropriate answer to that, Mr. Munro, I would refer you to page 33 of our brief starting near the bottom of the page. You will find there a very extensive list of unions that are not affiliated to the Canadian Labour Congress, that are not affiliated to the CNTU, all of which have received certifications, in many cases in conflict with CLC applications. In all the years that I have been familiar with the Board, which is something over twenty years although I have only been a member for going on 9 years, I have never heard one of these unions in any way, shape, or form suggest that an injustice had been done to them. In fact, what has been going on, and I think that this Committee should take cognizance of it, is that for well over twenty years that Board operated and made an outstanding contribution to industrial relations in Canada and to the interests of Canada as a whole, and the reason that it was able to do so was because it enjoyed the complete confidence of employers and employees alike. In most given situations, there is a loser or a winner and although some may have disagreed with the decisions of the Board there never, never has been any question raised as to the decision of the Board not being arrived at on the basis of honesty and on the basis of the facts and the evidence placed before it. But what is happening now is that confidence in that Board is being broken down, and I suggest to you, regardless of what happens to Bill C-186, that the situation will never be the same again.

• 1215

Mr. Munro: I did point out to you, Mr. MacDonald, that the CLC itself and just about every union to my knowledge that is affiliated with the CLC have come in very much opposed to the principle of this bill and have stated their principal objection, which may be a very valid one. But that is not the point I am raising now. They base it on being absolutely wedded to the principle of national bargaining units and absolutely opposed to any type of fragmentation, which has been a consistent pattern throughout all the briefs of unions that have been affiliated with the CLC. Now would it not be natural therefore to expect that the same CLC appointees on the Board would feel the same way?

Mr. MacDonald: Not only the CLC appointees on the Board, the Board as a whole feels the same way, and the members of the Board representing the employers feel the same way.

Mr. Munro: Yes, as you have explained.

Mr. MacDonald: They believe in all sincerity, in the interest of good life and orderly labour relations in this country and in our national interest as well, that where it is appropriate there should be system-wide bargaining and national certifications, but that is not to say to the exclusion of all other types. Certainly the Board since its inception, in fact the predecessor board as well, the War-time and Labour Relations Board, enunciated that principle, and it has been followed consistently by the Canada Labour Relations Board, and with the support of its members naturally.

Mr. Munro: All I am saying is that if one observes that there is consistency in terms of viewpoint between the CLC and every one of its affiliates it is not illogical therefore to expect that any union representative coming before the Board, maybe in its dispute with the CLC affiliate, is going to have some doubts, whether they are justified or not, as to the type of hearing he is going to get because he would expect those men on the Board to show the same type of consistency that your union and all the affiliates have shown when appearing before this Committee on the principles involved. All I am suggesting is that perhaps it might be helpful if we could interject some type of amendment here that could overcome these doubts. I do not think that in any way would be casting any kind of reflection on the integrity of the members of the Board.

I also wanted to refer to page 7 of your brief, paragraph 12, where you quote from the CNTU brief:

12. "It may be seen from the foregoing that the CNTU relies very heavily (although not exclusively) on the issues of language and culture."

I think the CLC, and quite rightly so, has been an exponent of the expanded role, that unions play in society. Many of the briefs have emphasized that unions, in terms of backing up the national bargaining unit principle, are concerned with the working conditions of employees and in bettering those working conditions. We know also, from the activities the CLC perform on a year-round

basis and what trade unions themselves do in our different communities, that the CLC regard their role as being quite expanded in terms of involvement in community affairs, betterment of environmental conditions for all our people and so on. Would you agree with that?

• 1220

Mr. MacDonald: Yes.

Mr. Munro: What is so wrong then with the union that feels perhaps one of the criteria to judge the appropriateness of a particular bargaining unit—I just say one—should be matters concerned with cultural and language considerations.

Mr. MacDonald: Because it has no relation in the working place.

Mr. Munro: I am talking about the expanded role of unions. If a particular union feels that because of its personnel and other objectives it is in a better position than another to represent the cultural and linguistic qualities of members, what is the matter with its advancing that as a legitimate criterion?

Mr. MacDonald: Because it is a false concept. The illustration you used has no relation whatever to the certification of appropriate bargaining units—none whatever. We do believe that unions as part of the fabric of Canadian society and unions members as Canadian citizens should involve themselves responsibly in all aspects of human life and assume their share of responsibility in the social, economic and political fields. We believe this, as you have said.

But this has no relation, none whatever, to the determining of what is an appropriate collective bargaining unit within a given place. If one were to project that and expand it, we have ethnic groups right across this country in practically every one of our unions and where would this stop?

Mr. Munro: All right; may I answer that question?

Mr. MacDonald: Yes, well that is only one point. That is the language point.

Mr. Munro: I quite agree with you. You cannot carry this too far. I am trying to direct your mind to the context of what is going on in Canada today, and you know as well as I what is going on. You know of the constant discussions in the political realm and everywhere else in terms of the conflict between French- and English-speaking Canadians. You are perfectly aware that the New Democratic

Party, for instance, as a political force in the country, has advocated special status for French Canadians in terms of their policy. You know that some other...

Mr. Lewis: Not for French Canadians.

An hon. Member: They retracted it.

Mr. Lewis: No, we have not retracted it, but not for French Canadians, for Quebec.

Mr. Munro: For Quebec, which is largely French Canadian, but you know that other parties are trying to evolve policies in terms of two nations and they are arguing about other concepts because of the special considerations that are appropriate to their French Canadian compatriots here in Canada. Now, why is this not a legitimate concern for the trade union movement in the expanded role you have acknowledged they should assume?

Mr. MacDonald: Why is not what a legitimate concern?

Mr. Munro: Well, these considerations about special rights of French Canadians in advancing their interests.

Mr. MacDonald: We are a bilingual organization and we regard everyone within our organization as having equal rights without regard to race, language, colour, creed, sex or national origin and the record will prove that the Canadian Labour Congress has been in the forefront right through the piece of trying to see that our people in Quebec receive justice, fair treatment and equality.

We have tried our best to do it and, I think, with some degree of success, but we do not believe that because of this people ought to be broken up into ghettos. In fact, it would not contribute to what we are trying to achieve; it would do just the very opposite.

Mr. Munro: When you talk about ghettos, you are jumping a couple of steps on me.

Mr. MacDonald: No, I am afraid I must disagree with you on that too. If we were to follow through on the thought of creating unions on the basis of language and culture, there could not be any escaping the ghettoizing of these people.

Mr. Munro: Of course, that is a misinterpretation, Mr. MacDonald, of what I was saying I am advancing this as one legitimate criterion of many, not exclusively, and that is all I was putting to you.

• 1225

Mr. MacDonald: But I would like if I may, Mr. Munro, in elaboration of my answer, to tell this Committee at least one thing. A large part of the reason why this legislation has been introduced and why this Committee is in session today has to do with the CBC, where this was one of the major arguments advanced by the CNTU in support of its position of trying to fragment a part of an established national unit away.

Over and over again—and I sat up until a very late hour this morning reading in some of the Proceedings what was said before this Committee in previous sessions—this was admitted and the matter of the CBC case was quoted before this Committee on a number of occasions. The whole burden of the propaganda and what was said before this Committee is that a group of people in the CBC in the Province of Quebec was being denied natural justice—and I am being as kind in my interpretation as I can—because of the intransigent position adopted by the Canada Labour Relations Board in its adherence to the policy of not fragmenting national units unless there were compelling or persuasive reasons for doing so.

The whole inference right through the piece that there is a large group of French-speaking people in the CBC that wanted to escape, that are kept captive. Well, just within the past two weeks the Canada Labour Relations Board has dealt with that case to finality, the case that perhaps more than any other...

Mr. Munro: I am aware of it.

Mr. MacDonald: ... gave rise to Bill C-186. I think it is important for the Committee to know, in the light of the things that were said to it about this case, the official facts and evidence. Two of our unions, two Canadian Labour Congress unions, contested each other for that national unit in the last case, one the Canadian Union of Public Employees and the other the National Association of Broadcast Employees and Technicians. Within the proposed unit, which was the existing unit actually previous to the certification of IATSE, there were 735 employees of the CBC who came within that unit in Montreal. Of these 735, 460 were members of the Canadian Union of Public Employees according to unrefuted evidence before the Board.

Mr. Lewis: You said Montreal; it is the Province of Quebec, I think.

Mr. MacDonald: No, it is not; I am developing that.

Mr. Lewis: It is just Montreal?

Mr. MacDonald: Just Montreal; I am making the point at the moment.

Mr. Munro: The CUPE union was here; we are not contesting it.

Mr. MacDonald: No, but I want to get the record straight so far as what has been said to this Committee is concerned and what gave rise to Bill C-186. That meant there were 62.6 per cent of that unit in Montreal who were members of one of our unions, the Canadian Union of Public Employees. The other applicant union was the National Association of Broadcast Employees and Technicians, the same unit. It had 144 cards of which 45 eventually were withdrawn, but sifted down to its basis it had 13.45 per cent.

• 1230

In other words, 76 per cent of these people in Montreal, who were supposed to be members of the CNTU and were being kept captive by the intransigent attitude of Canada Labour Relations Board, demonstrated beyond all shadow of doubt that they did not want the CNTU.

In Quebec City there were 29 in the unit of which 22 were CUPE members for a total of 75.5 per cent. Between the two locations, the percentage was 63. In Quebec, of the same unit there was 13.79 per cent.

In other words, what I am saying to this Committee is that for whatever reason—I do not know; I am not going to attribute reasons—obviously a tremendous propaganda job was done on people to try to convince them that a very great majority of these people were being kept captive, and the facts have demonstrated that it just was not true.

Mr. Munro: Mr. MacDonald, I would like to...

Mr. MacDonald: It also demonstrates, if I may say so Mr. Munro, that these people, despite everything that was said, did not believe that a unit based on language and culture was best designed to serve their purposes.

Mr. Munro: I am not going to argue with what you have said. None of us can afford to be too angelic when it comes to propaganda, the CLC, political parties or the CNTU, perhaps. I want to quote from an article and get

your views on it. It is by Douglas Fisher and Harry Crowe in the *Toronto Telegram*, April 19, 1967. It expressed views somewhat similar to those I have endeavoured to indicate here. It is entitled *The Great CLC Lobby in Ottawa* and I am referring to this particular paragraph:

The federal Industrial Relations and Disputes Investigation Act speaks of a unit "appropriate for collective bargaining". But so many customs have emerged relating to the combination of units in the process of bargaining, that what is really meant is "appropriate for certification". The fears of fragmented bargaining are not based on impressive evidence. There is no reason why a union in the Quebec-based Confederation of National Trade Unions could not be certified for railway workers or CBC employees in Quebec, and then bargain in concert with unions representing the employees outside of Quebec. Joint negotiations of several national and international unions already take place. In the construction trades in Montreal international affiliates of the CLC and syndicates of the CNTU bargain together.

If one rejects the proposition that unions are only economic organizations and therefore language and other vital social aspects of a community of interest must be relevant, and if one disposes of the fear that the loss of national certification must carry with it the loss of national bargaining what objection can remain to the proposition a majority of workers in a large unit of management, speaking French and not English, should have the right to decide what union they should be in?

Now, in terms of a general proposition, what is wrong with that reasoning?

Mr. MacDonald: If I understood it, it was a rather long and typically convoluted statement by the two gentlemen concerned.

The Chairman: We should send Mr. Fisher a transcript of this meeting.

Mr. MacDonald: But if I understood it properly, it is the same theory you posed some time ago of establishing units on the basis of language and culture, and I think I have gone on record on that.

The Chairman: Can you wind it up Mr. Munro, please?

Mr. Munro: Yes. I would like to quote one more paragraph, if I may.

The position in this very important matter which the Canadian Labour Congress has taken, is not in the best interests of workers or of the labour movement or of...

Mr. MacDonald: I am sorry, Mr. Munro, I cannot hear you.

Mr. Munro: Carrying on in this particular article, I am quoting Mr. Fisher.

The position in this very important matter which the Canadian Labour Congress has taken, is not in the best interest of workers or of the labor movement or of the country as a whole. It is a position which arises from a total failure to understand the nature of the divisions which have arisen between Quebec and the rest of Canada. It is also a position which finds its origin to a considerable degree in an American concept of "business unionism" which Canadian trade unionists for most purposes have long since discarded. This business union idea is the idea that the collective agreement is really the only important thing of concern to a labor union. The union plugs the worker into society at the point of the collective agreement with the employer and really nowhere else. The worker, according to this business union idea finds his other contacts with society in a multitude of ways like any other citizen does.

• 1235

Now, Mr. Fisher contends that this opposition of yours is based on a total failure to comprehend what has gone on and is going on in Canada in terms of Quebec and the rest of the country, and that there should be other criteria taken into account when we are talking about French Canadian workers and this is one of many criteria that should be taken into account by members of the Canada Labour Relations Board when they determine the appropriateness of a bargaining unit. With this you entirely disagree. Is that right?

Mr. MacDonald: I do not believe that culture and language is the basis on which certifications can be determined. I will say that I should be very much surprised if I ever read anything by these two columnists that I did agree with. I cannot think of less informed material that I read anywhere and, needless to say, the two gentlemen are not noted, as you suggested some others were, for being

sympathetic to the Canadian Labour Congress. But this is all right. I hope we can take criticism in our stride but naturally I would be much more impressed if it were informed and intelligent criticism.

Mr. Munro: I might indicate that since April he has come out in favour of your particular position.

Mr. MacDonald: As a matter of fact, this is one of the things I noted. If I am not mistaken...

Mr. Munro: I might say for your edification, Mr. MacDonald, that I do not religiously read that column but I have seen these two gentlemen take three different positions since this issue has been joined. They have taken three different positions at three different times in the matter so at least the main difference arises on one side or the other rather than three.

Mr. Munro: Mr. Chairman, I do have other questions but I realize that I have gone on long enough. If there is time, I would like to come back later.

The Chairman: Mr. Clermont and then Mr. Lewis.

Mr. Clermont: Mr. MacDonald, I would like to ask my question in French.

Mr. MacDonald: I must apologize, I am...

Mr. Clermont: There is no need to.

[Translation]

Mr. MacDonald, in answering a question asked by my colleague, Mr. Munro, concerning the participation of the members of the CLRB, you said that, in your opinion, after being sworn in, a member acted according to the Regulations and according to his conscience, whatever his previous affiliations. Are you of the same opinion as regards those who represent the employers?

[English]

Mr. MacDonald: Yes I do, Mr. Clermont. In fairness if I may I would just like to elaborate because I think this is one of the points that is being overlooked in connection with the consideration of this legislation. I want to go on record as saying that it has been my experience that the employer members of the Canada Labour Relations Board invariably have acted with complete propriety and integrity.

[Translation]

Mr. Clermont: This is what I find strange. You are asking us to accept such a judgment such a definition. However, last week, when the President of the QFL, Mr. Louis Laberge, was here before the committee, we spoke of an appeal division composed of a President or Vice-President and two other members. In his statements, Mr. Laberge led us to believe that these would be political nominations.

It annoys me, it even makes me angry when certain people imply that the nominations would be political, but that, however, if the nominations were made to represent the workers or the employers, the participants would respect their oath of office. As for the others, who would represent the public at large, their honesty would be questioned.

[English]

Mr. MacDonald: I question the honesty of unknown people. I even question the honesty of known people. I have not the slightest idea who the government might appoint, or what criterion they would use in appointing them; and I have no reason in the world to suggest that they, any more than anyone else, would perjure themselves.

• 1240

[Translation]

Mr. Clermont: With regard to another question asked of you by Mr. Munro, Mr. MacDonald, you said that on several occasions you had proposed the certification of a group of employees belonging to the CNTU, and that you had even voted for the certification. I see in paragraphs 15 and 16 of page 13 in your brief that you mention:

during the two years under review the Canada Labour Relations Board considered 33 applications in which the CNTU was involved, either as an applicant or intervening party. In 9 of these cases, national bargaining units were a matter of issue; 3 were withdrawn by the CNTU; and in no case was the application of the CNTU accepted.

In these cases, Mr. MacDonald, do you remember the vote of, let us say, the CLC representatives and the railway brotherhood?

[English]

Mr. MacDonald: No. I am afraid I do not remember. We deal with far too many cases.

[Translation]

Mr. Clermont: Would you have any explanation as to the fact that each time, it would seem, certain representatives of the CNTU ask for fragmentation of bargaining units? It seems that in the past few years these applications have never been accepted. They have always been rejected. Is this because the two representatives of the CLC and the railway brotherhood and those of some employers are not interested in fragmenting the national bargaining units under the pretext of public interest?

[English]

Mr. MacDonald: I cannot from memory, of course, deal with all of these cases. I do not recall them all. I do not know which ones in particular are being referred to. However, it would not be for the reasons advanced by Mr. Clermont.

I think this is a case where again I should repeat that the basic policy of the Board over a period of more than 20 years has been that where there are established national bargaining units the Board, as a matter of policy, will not fragment these units except for compelling or persuasive reasons.

It might be of interest to the Committee to avail themselves of the reasons for judgment that were issued in a number of these cases. That would give you the answer much better than I can extemporaneously. I am sure I am safe in saying, however, that in the majority of these cases it would be because of the Board's policy of not being prepared to fragment existing national bargaining units except for compelling or persuasive reasons.

[Translation]

Mr. Clermont: My next question, Mr. MacDonald. You told Mr. Munro that, regardless of what happens to Bill C-186 which is now being considered before this Committee and before the House of Commons, the image of the CLRB would never be the same with regard to the public. As for me, I am intrigued by the fact that you are a member of the CLRB and that you are here as the spokesman for the CLC.

[English]

Mr. MacDonald: If there is a question I missed it. As I understood it, Mr. Clermont was making the point that I am here as a spokesman for the Canadian Labour Congress. That is entirely correct.

• 1245

At the same time I am a member of the Canada Labour Relations Board. That is also correct.

[Translation]

Mr. Clermont: Then what will be your position in the future as a member of the CLRB?

[English]

Mr. MacDonald: I can assure Mr. Clermont that if and when it becomes necessary my position will be made well known publicly.

[Translation]

Mr. Boulanger: I would like to ask a supplementary question, Mr. Chairman, in view of the fact that we are speaking French. If you will allow me, I will ask more questions later. How then, if I understood the translation of your first statement, can you say that following the debate of this bill in Committee, from then on people will place some doubt as to the integrity of the CLRB or even harm its good reputation? Now the French version that we got, if I understood correctly, is a very very strong statement. So how can you, now answer Mr. Clermont as a representative of the Canadian Labour Congress and at the same time as a member of the CLRB? You say there will be no change that it will not influence your position.

Mr. MacDonald: No, no.

Mr. Boulanger: Why then would the reputation of the CLRB be placed in doubt? This does not seem to correspond with what you said previously. If you do not change, why then would the CLRB's reputation change?

[English]

Mr. MacDonald: I did not say that I would not change. That is important. I did not say that at all. My answer to Mr. Clermont was that if and when it becomes necessary, in my view, my position in the matter will be made public.

What was the other point?

Mr. Boulanger: The other point arises from your first declaration. You made it strong, but the French, if correctly interpreted, made it really strong and had you saying that definitely after this Bill, the integrity and the reputation of the CLRB might change, or in fact, be diminished, or something to that effect. That is as I understood the interpretation.

Mr. MacDonald: I now understand it much better. My point is that confidence in the Canada Labour Relations Board will be eroded as a result of the introduction of this Bill, the statements that were made in Parliament on its introduction, things that have been said in this Committee and been published, and the propaganda that has been disseminated from one end of this country to the other on the matter. All of these will, in my opinion, contribute to undermining the confidence which the Board has enjoyed to date.

Here is a press clipping from the March 1 issue of the *Globe and Mail*. The headline reads: "Establishment Guilty of Racism", Pepin says". It then goes on and—I hesitate to use the adjective that comes immediately to mind, but to be as moderate as possible—a very, very serious attack is made on the integrity of the Chairman of the Board.

Mr. Boulanger: May I ask by whom?

Mr. MacDonald: By Mr. Pepin, the President of the CNTU.

• 1250

I also show you a special issue of *La Libre*, the CNTU newspaper. Everyone, whether English or French, can read what that one word means in reference to the introduction of Bill C-186 in Parliament. Looking at these two things alone, to say nothing of the voluminous mass of material that has been published and disseminated by radio, T.V. and literature, and by everything else, I do not see how anyone could arrive at any conclusion other than that confidence in the Board would be undermined. This issue of *La Libre*, for example, quotes Mr. Marchand as saying:

The provisions of the Bill aim at putting an end to the injustices committed by the Canada Labour Relations Board.

I think a very serious disservice is being done to the Board and everyone associated with it when such accusations are made and the people who make them are not required to support and prove them. If injustices are being done by the Board I would be the last person in the world to suggest that the Board is infallible. Far from it. It is made up of humans who can make mistakes of judgment the same as everyone else, but I think the kindest thing I can say is that to make such charges and not be required to support them is an abuse of our parliamentary system and our whole democratic way of life.

The Chairman: Mr. Clermont has the floor, Mr. Boulanger. I am prepared to add your name to my list.

[Translation]

Mr. Clermont: Mr. Chairman, Mr. MacDonald, some witnesses came before this Committee and let it be understood that the very fact of Bill C-186 being before Parliament would hinder the good work of the CLRB. In your comments, in reply to Mr. Munro, you referred to a decision given last week, I think, with regard to certification of a group of employees at the CBC. Now, here is my question. It might perhaps seem strange, but here it is.

Was the decision, reached by the CLRB last week, reached according to the existing regulations, or was it only to say: "We are the boss."

• 1255

[English]

Mr. MacDonald: I am glad you asked that question, Mr. Clermont, because I am sure there is some thinking abroad with respect to that. I will assure this Committee that this Board has been an independent Board and continues to be an independent Board and the case was processed in the ordinary manner.

There were representations to the Board by the CNTU that in light of the fact that Bill C-186 was before Parliament the decision in this case should be delayed. The Board thought it would be completely irregular if it were to do that; that it had an obligation, now that all the facts and evidence were before it, to deal with this under the existing legislation in exactly the same manner as it had dealt with all other applications under the existing legislation.

[Translation]

Mr. Clermont: In your comments with regard to certification of a group of employees for the CBC, you did mention that the CLRB reached its decision following an enquiry in which it was proved that the majority of the employees of the CBC were in favour of one group rather than another. So, would it not be the case then, Mr. MacDonald, that, if Parliament were to pass Bill No. C-196, such applications would be made only upon the initiative of a majority group, perhaps either local or regional, but only once a majority of the employees, let us say, like the Railway Brotherhood, had expressed its intention to apply for certification on a

regional basis rather than on a national basis, because, I know that on several occasions, individual members of the Railway Brotherhood have told me that it was very difficult for them to be represented by a national bargaining unit because of the fact that the nine other provinces constituted a majority and that the other people did not know the attitudes and ideas of Quebec society well enough to defend them properly in negotiations, in a nation-wide bargaining unit.

[English]

Mr. MacDonald: If I understand and recall the question put by Mr. Clermont, in the first instance I believe it related to the breaking off of regional or local groups from existing national bargaining units. When the Board deals with applications it is seized in the first instance, as you know from the legislation, to determine what constitutes an appropriate collective bargaining unit. The individual union makes application for a bargaining unit which it describes and the Board may or may not agree that is appropriate.

In these instances you say, would there not be a majority, as I understood it. The Board requires that there be prima facie evidence of a majority for the unit for which the applicant is applying. The point there is not the majority, as I see it. Under the proposed legislation it would be possible to fragment these national units down into anything local at any level within any grouping or anything else.

Certainly the applicant's union would have to produce prima facie evidence of a majority of the unit for which it was applying but the unit might be a dozen or so people in a bottleneck of some operation vital to the national economy and national interest of this country. Under the proposed legislation I do not believe the Board would have any alternative but to give regard to that application, regardless of what it might conceive the consequences to be.

If the decision were not satisfactory to the applicant, then the applicant could appeal the decision on the basis that proper attention had not been paid to what I interpret to be a direction. Appeal it and this could go on interminably; in fact, every application could be appealed on this basis. So, there really is a number of things involved here. I think this probably is the most important aspect of what we refer to as the public interest.

One could imagine that in railways, in airlines, or in any number of places across this

country, a small, local group could tie up the entire national system and, under this legislation, there could be a multiplicity of such groups, all of which would do the same thing at different times and obviously would be in competition with each other, trying to do the best they could for their own interests.

The Chairman: Is that all, Mr. Clermont? Have you another question? We have a minute or so.

• 1300

Mr. Reid: Mr. Chairman, may I ask a supplementary? You mentioned the difficulty with the appeal clause, that almost every application would go to appeal, Mr. MacDonald. Would it not be true that the appeal court would set its own jurisprudence in much the same way as the CLRB sets its regulations with respect to applications, and then after a certain number of them have been heard decisions would be made on good reason and not just for the fun of it, as you have intimated.

Mr. MacDonald: You are quite right. The appellate division, as I understand it, would have the right to establish its own rules and everything else. I cannot assume what they would establish.

Mr. Reid: In other words, it would tend to act, if it were established, in much the same way as the CLRB does. It would have its own set of criteria by which to judge these things and presumably after a number of appeals the CLRB—if there were a division between it and the Appeal Board—would adjust its rules accordingly in order to stop this sort of thing.

Mr. MacDonald: I am sorry, but I do not presume any such thing.

Mr. Reid: I am not a lawyer, Mr. MacDonald, I assumed that this was the law.

Mr. MacDonald: I do not accept the presumption and I do not see any justification for accepting the presumption in the legislation.

The Chairman: Gentlemen, possibly we can pursue that interesting question after lunch. Mr. Lewis will be the first one to ask questions after lunch, followed by Mr. Munro.

Mr. Boulanger: Mr. Chairman, I also have one or two questions.

The Chairman: I will add your name, Mr. Boulanger. The meeting is adjourned until 3.30 this afternoon.

AFTERNOON SITTING

• 1539

The Chairman: Gentlemen, I see a quorum. Are you going to continue with your questioning, Mr. Clermont?

[Translation]

Mr. Clermont: Thank you, Mr. Chairman, here is my question. Mr. MacDonald, let us take as an example: the railway industry.

From the point of view of administration, its services are divided into four or five regions throughout Canada, one of which, I think, is called the region of Eastern Canada. If the majority of these workers were to ask for a fragmentation of the national bargaining unit, could I believe then, given your own organization, that in the public interest and in the interest of efficiency, the CLRB would not have to consider such a request?

• 1540

[English]

Mr. MacDonald: Would they have to...

[Translation]

Mr. Clermont: No, no. Would you want me to repeat my question? In that case, I will speak more slowly.

Let us take the case of the railway industry. I think that from an administrative point of view this public service is divided into regions. There are, I believe, four or five of these regions in Canada. If, for instance, the majority of the workers in the Eastern region were to ask the CLRB to fragment their national bargaining unit, as your organization at the CLRB would do, can I presume that in the public interest, in the national interest and from the point of view of efficiency, such a request would have to be refused?

[English]

Mr. MacDonald: Not necessarily; the Board would deal with it on the basis of the evidence, the facts and in the interests of all concerned. If the Bill becomes law the Board could retain the initial national unit or it could fragment it. It would be at its discretion. As you suggest, it would take into consideration all the factors involved—the public interest, the national interest, the interest of those concerned with the application, as well as the interests of the others in the existing national unit. There appears to be a misunderstanding at the moment; that once the national unit is established, it is never broken, but that is not the case. There have been several instances where, having regard to all

the facts, the Board has certified a group from within an existing national bargaining unit.

[Translation]

Mr. Clermont: Mr. MacDonald, here is my last question. Let us examine a specific case. If the majority of the Angus Shops workers were to ask to be certified only at the level of the Angus Shops, what would be the reaction of your organization or of the CLRB?

[English]

Mr. MacDonald: I cannot tell you what the CLRB would be, but I know—speaking for the Canadian Labour Congress—we would not consider it to be in the interests of all concerned to fragment that out of the existing national unit. We believe there is more concerned in this than the interest of the people involved in the Angus Shops alone, and all the other people in the national unit have to be concerned as well. So, from the point of view of the Canadian Labour Congress, we certainly feel that it should not be broken off. The CLRB, as I said, would deal with it on the basis of the facts and the evidence.

[Translation]

Mr. Clermont: In one word then, according to your organization, the public interest must predominate over the interests of the group?

[English]

Mr. MacDonald: Did I understand your question to be whether the public interest should take precedence over everything else?

Mr. Clermont: Over the interests of local groups.

Mr. MacDonald: Yes.

• 1545

[Translation]

Mr. Clermont: Thank you, Mr. Chairman, thank you, Mr. MacDonald.

Mr. Boulanger: Mr. Chairman, in view of the fact that the interpreter is in such good form, I was wondering if I could continue to ask questions in French. I could ask them later. I think it is your turn to ask questions, Mr. Lewis.

Mr. Lewis: It is not serious; I can wait. Go ahead, Mr. Boulanger, I will ask my questions after you. It doesn't matter.

[English]

Mr. Boulanger: Are you sure?

Mr. Lewis: Quite sure.

Mr. Boulanger: I do not want any special favours.

Mr. Lewis: No, no.

Mr. Boulanger: I also can question you in English, but my questions were written in French and I think I should...

[Translation]

My first question, Mr. MacDonald. Are you just as convinced...

[English]

The Chairman: Mr. Boulanger, would you get closer to the microphone, please.

[Translation]

Mr. Boulanger: Mr. MacDonald, are you convinced of this or do you think it would be possible to convince you according to your brief? I must congratulate you because it is a report which contrasts with the one we have received and was read to us by Mr. Laberge of the QFL. This one analyzes Bill C-186 very objectively and not in a partisan way. Consequently I congratulate you because of this.

However, I remain convinced and I wonder if you might also be convinced, provided it is still possible to do so. Should we not say that at the present time the object of Bill C-186 is not to divide the bargaining units? This is my first question: do you agree, in principle, that the object of Bill C-186 is not to divide the bargaining units?

[English]

Mr. MacDonald: No, Mr. Boulanger, quite the contrary. I do not see how anyone could ever believe other than that it is the intent of the Bill to divide. I think its purpose stands out clearly in the proposed legislation. By enshrining this principle in the legislation and requiring the Board to have regard to it in all decisions, it is intended to be a device by which the units on a national basis could be broken down locally and regionally.

[Translation]

Mr. Boulanger: Mr. MacDonald, would you admit that Bill C-186 also has as its object to grant an additional guarantee of free of association. Do you not see this aspect of the Bill?

[English]

Mr. MacDonald: No, I do not. In my considered opinion the bill exists for one reason, and one reason only; to appease the CNTU.

[Translation]

Mr. Boulanger: Mr. MacDonald have you finished?

[English]

Mr. MacDonald: Yes, you said it was your last question, Mr. Boulanger, and therefore I could be literally...

Mr. Boulanger: No, no, I said I had the first one...

[Translation]

With regard to Bill C-186, the examples that we are actually giving have come from Quebec through the CNTU which made the first advances with the case of the CBC and then with the Angus Shops. Is it not possible or probable that the same requests could come to us one day from other provinces and based on other arguments? Do you not believe that it is possible?

[English]

Mr. MacDonald: Yes, in fact, I have. As a matter of fact, there was one other case and I am glad you asked the question, Mr. Boulanger, because I think this brings into focus the fact that the accusations directed at the Canada Labour Relations Board with respect to bias are not true. The Teamsters' Union, as a matter of fact, tried to fragment a national bargaining unit on the CPR—the merchandizing services—and the Board was consistent in that as in all similar applications. The Board was not convinced that it was an appropriate bargaining unit, in the light of its policy, and rejected that application as well. I agree with you that under the legislation as it is proposed any group could make application to fragment. There is no condition of restraint on any union, they can apply at will, and I suggest that many of them probably would. We are trying to impress on the Committee the danger of what would happen under these circumstances, not only on the basis of their making application for any number, a multitude, of small units but then, if they did not succeed in their application, of taking their rejection to appeal before an appellate division that would exist over and above the Board. It could be tied up in appeals interminably.

● 1550

I am sure you recognize that employers too would have exactly the same right of appeal. So, really the thing could go on forever. We are suggesting to you that this is one of the great weaknesses of this Bill; it could very well stymie the orderly disposal of cases that would come before the Board.

[Translation]

Mr. Boulanger: I am well aware of this, Mr. MacDonald. But as you see, it is not just a question of asking you questions in order to have such answers as favour our case. We do want to know what you think.

Now, I am going to ask you another question and that is with regard to the right of association. Are you as convinced as I am, Mr. MacDonald, that freedom of association is a basic right of the workers and that it is the duty of the State to protect it? I would like to know what you think of this before I ask my next question.

[English]

Mr. MacDonald: Yes, I am. As a matter of fact, it is enshrined in the legislation that this Bill proposes to amend. The right of association, the right of the individual to belong to a union of his choice, is enshrined right in the legislation now, we do not question the right of a person to belong to the association or union of his choice; quite the contrary. Naturally it has been our policy as a national labour centre to defend and promote this right at every opportunity, and I think our record shows that we are consistent in this regard.

[Translation]

Mr. Boulanger: Then, Mr. MacDonald, you also admit that the right of association is not limited solely to right to form groups, but also the choice of one's association or union. Your answer admits this automatically.

[English]

Mr. MacDonald: I am afraid I did not follow that question.

[Translation]

Mr. Boulanger: I said that through your answer, if I understood correctly, you also admit that the right of association is not limited to the right to form groups but also the right to choose one's association or trade union. You admit this automatically.

[English]

Mr. MacDonald: I am not familiar with the phrasing. The right of association, as I have indicated I think pretty clearly, is one that we believe in and defend and promote. What is meant by this "right of grouping" I do not understand.

An hon. Member: To choose the association; to choose the union.

Mr. MacDonald: That is the second part of it. "To choose a union" was the second aspect of it but there was one preceding that. It was translated as the "right of grouping" which I do not understand. The right of the individual to belong to the union of his choice is not only unquestioned but ardently supported.

Where part of the trouble in this connection arises, in my view, is that for some reason or other—and I am not going to impute reasons—the right of the individual to belong to the union of his choice has been confused completely with the right of the majority to have a union certified as its representative bargaining agency.

The two are not necessarily the same and in our main brief we have tried to clarify the confusion that exists. We have gone to considerable length, as you will find in the main brief, in developing this point.

• 1555

Mr. Boulanger: Which page in the English brief? Which one is it?

Mr. MacDonald: I am told it is paragraph 64.

[Translation]

Mr. Boulanger: I would like to come back to this morning's discussion with regard to the danger that Bill C-186 would tarnish the reputation of the CLRB or even have its integrity doubted in certain places. I want to come back to this. But in view of the fact I am not a lawyer I would like to use a very human argument if you will.

It is always said that a trade union is a big family. Also that the president is at the same time mother and father. Let us make a comparison. The union is one big family. You are the father and almost the mother of this trade union, since you are the President and at the same time you are the secretary-treasurer of this organization.

I will give you an example to make you understand why, at one point, the discussion bore upon impartiality, etc. I will speak then of the danger that Mr. Munro brought up without putting any doubts on the integrity of such persons as you or others. I will give the example of the father of a family. I remember that, about 14 years ago, there had been a contest among eastern businessmen—a baby beauty contest. In that contest there were about 40 young mothers, among which was

my wife, who had been haphazardly appointed a judge. But my baby was also a contestant in that contest. My wife then automatically, and through her own instinct, in view of the fact she was a judge and I was an alderman of the City of Montreal, was scared of being accused of injustice. That was her reaction. My wife then resigned as a judge, because it is impossible to make any mother believe that her child is not as pretty as the neighbours'. Her child is always prettier than the other's. My wife's first reaction was to say: "I can't be a judge when my own child is a contestant." Mark well that my child does not look like her father, she is much prettier. Now, automatically, what would have happened? The reaction in the crown, if my wife had remained a judge, would have been to think, not necessarily that my wife was dishonest, but that she might have had some tendency to think her daughter was prettier than any of the other 70 contestants.

So when Mr. Munro brings in this argument, I relate it to a strictly human argument. Do you not think that as regards the debate or discussion of the present Bill C-186, the public might suspect a danger that you cannot fulfil both roles at the same time, even if you have been sworn in and that you are absolutely neutral?

[English]

Mr. MacDonald: I am very glad you asked that question, Mr. Boulanger, because it gives me the opportunity to say something that in retrospect I would like to have said this morning in connection with some of the questions that were posed. I find it difficult to break down all the misinformation that has been given to this Committee with respect to the Canada Labour Relations Board at one session.

I think your use of the analogy of the mother and father is very appropriate. The Canadian Labour Congress, for example, in addition to its affiliated unions—the international unions with which it has an affiliation, the national unions, the provincial unions—also directly charters local unions. It directly charters them and, in relation to them, occupies the role of a parent union to any of its locals, branches or lodges.

• 1600

Very recently, as a matter of fact, there was a case before the Canada Labour Relations Board that involved one of these directly chartered unions. In that case I personally agree that your analogy of the father and the

mother concept was an appropriate one. I disqualified myself from that case because of this very factor, and I should say in elaboration that there have been times when, for example, within our set-up and under our internal disputes settlement plan about which Mr. Gray questioned me this morning, we have had a case being processed within the Congress and an almost identical case might be before the Board, and you will find that in these cases I have also disqualified myself. In other words—and I am not the only Board member who has disqualified himself in particular cases—where his conscience dictates that there might be a conflict of interest, and if there is a conflict of interest, then I think the individual is obligated to disqualify himself. The Board never requires them to do so, but certainly mature people should know when there is this possibility. So, in such cases we have disqualified ourselves from time to time.

Mr. Gray: I would like to ask a question for clarification. I gather from what you have just said that it is a fact that cases which come under your internal disputes procedure in the Congress can also cover the same ground and involve the same parties as cases before the Canada Labour Relations Board.

Mr. MacDonald: Yes, they can, Mr. Gray. In fact, you mentioned this morning and were developing it at one point, that under our constitution one union raids another union. This is obviously a violation of our constitution if the party is found guilty. The raiding party, if it thinks it has a majority, applies to the Canada Labour Relations Board for certification. There are some cases where there are appeals under our procedure to the Executive Council, and where I perhaps have taken a position on the matter within the Canadian Labour Congress and I do not think that in these cases I can honestly sit in judgment on the same case when I have a predetermined position that I have taken within the Congress, so I disqualify myself.

[Translation]

Mr. Boulanger: I have a last question, Mr. MacDonald. It might perhaps be a little bit humorous and yet a little bit serious.

It refers to the report that you gave us following the brief presented to us by the President of the QFL, Mr. Louis Laberge. I said a little while ago that I was congratulating you on your brief and I gave you the reasons. In view of the fact you have a very serious responsibility as a trade unionist,

throughout the country—and following your answer I will also have another last question.

Do you not believe that a man, for instance, like Mr. Laberge of the QFL, who says publicly, that he is in favour of a political party, and who asks members of the trade union to do as he does, do you not think that there is a danger then of creating problems of disunity throughout the country at the time of such decisions such as Mr. Laberge took since 1962?

[English]

Mr. MacDonald: What was the decision in 1962?

Mr. Boulanger: I will try in English. Mr. Laberge, the President of the QFL, decided to support publicly a socialist political party, the NDP. I know because I had Mr. Picard against me; I only beat him by about a 34,000 vote majority, but just the same... Do you not think that Louis Laberge is provoking by his attitude more political opposition to that bill than he claims Mr. Marchand himself has done? And is there not a danger there that he could cause you trouble in future years?

• 1605

Mr. MacDonald: Mr. Laberge is entitled to his political opinions just as much as you or I are, I think. If he wants to support the NDP that is his business. We encourage good citizenship within the Congress, within the trade union movement, and we believe that part of the role of a good citizen is to be active politically. If he wants to support a party I do not think for a moment that this interferes in any way, shape or form with the representations made here before this Committee. I would be more afraid, actually, Mr. Boulanger, of some person who did not have enough interest in matters of importance to our Canadian society and did not take a political position. I hope that every member of our unions has some political viewpoints. He is entitled to them whether he is a president of one of our organizations, whether he is an officer or a rank-and-file member.

Mr. Boulanger: Mr. MacDonald, is it not true that never has a chairman or any member of the executive of *Le Congrès national du travail du Canada* made a public declaration in favour of or against a party?

Mr. MacDonald: I do not know that that is true.

Mr. Boulanger: All right, I will ask you the question more plainly. Has the Canadian Labour Congress ever declared itself, or asked its members, as Mr. Laberge did, to follow a political party, officially and publicly?

Mr. MacDonald: Yes, yes, it has. The Canadian Labour Congress is not affiliated with any party, but it certainly has a political policy which is adopted in convention by its delegates and which it encourages its affiliates to subscribe to. We are a democratic organization and they decide whether they go along or do not go along, which I suppose is about the sum and substance of it, but certainly we have a political policy.

Mr. Boulanger: Therefore, according to your answer, in article 12

While preserving the independence of the labour movement from political control.

Do you not see any danger of conflict between members and executives or future arguments or even splits if you follow that new policy?

Mr. MacDonald: What new policy?

Mr. Boulanger: In the...

Mr. MacDonald: That is our constitution.

Mr. Boulanger: In article 12 you say:

While preserving the independence of the labour movement from political control

Mr. MacDonald: This is the same type of thing that went on this morning when people were getting an answer to one question, following it up and then misinterpreting and using an altogether different yardstick. That is exactly what is going on at the moment. I will fight to the death to preserve the principles enshrined in that article 12. When the trade union movement comes to the day that it is controlled by any political party—and I mean any political party, I do not care what it is—I do not want to be part of that trade union movement.

An hon. Member: Hear, hear.

Mr. Boulanger: That is what I want to know.

Mr. MacDonald: But that is a far cry, that is a far cry from having a positive political philosophy and supporting it and advocating it, and any suggestion that the two are the same or are synonymous is entirely incorrect.

We here in Canada live in a democracy and we believe that our organization is a democratic one and we just will not be controlled by any political force within our country or outside our country. I think we have demonstrated that.

Mr. Boulanger: I think I have the answer. Thank you very much.

[Translation]

Mr. Clermont: Mr. Chairman, may I ask a question in order to obtain certain details?

Mr. MacDonald said that he did not belong to any group affiliated to a political party; does he prefer his movement to control a political party?

[English]

Mr. MacDonald: No, this is democracy. I do not believe in a political party controlling a trade union movement, which unfortunately exists in some totalitarian countries where the politicians control the so-called trade union movement. It is captive. I do not believe in that any more than I believe that a political party should be minion of the trade union movement.

• 1610

An hon. Member: Hear, hear.

The Chairman: Mr. Lewis on a new line of questioning, I hope.

Mr. Lewis: Yes. I am not going to yield to the temptation to pursue the question on which the previous discussion ended.

Mr. Boulanger: It was not too bad.

Mr. Lewis: Whenever the truth comes out, Mr. Boulanger, it is not bad. That is what you had and therefore it was not bad.

I want to discuss with you a number of things, and as the questioning today has gone beyond our usual limit, I am sure the Chairman will extend the same opportunity to all members. I first want to discuss with you the basis of the determination of a bargaining unit. You have been asked a great many questions about freedom, bias, and all the rest of it. In my opinion it is time to come back to the basis of the problem. As a member of the Canada Labour Relations Board as well as an officer of the Congress, I know that you have had a great deal of experience. Do you know of any legislation in this country, or indeed in North America, where the deter-

mination of the bargaining unit is left in the hands of the applicant union?

Mr. MacDonald: No. The determination of the bargaining unit?

Mr. Lewis: Yes.

Mr. MacDonald: No. They make application for the bargaining unit that they conceive to be the appropriate one, but the determination resides, in all instances and without exception, with the Board.

Mr. Lewis: In actual practice, Mr. MacDonald, is it not a fact that in many cases an applicant union—forget the CLC and the CNTU—attempts to get a collective bargaining unit determined to fit its particular membership position.

Mr. MacDonald: Yes, that is true.

Mr. Lewis: Were the applications which led to this legislation really basically any different from the other cases where a union has membership in a certain area in a bargaining unit and tries to persuade the board to determine that area in which it has a majority of members? Do you consider these applications of the teamsters or the CNTU any different from the general sphere, where a union says, "I want this bargaining unit and in this bargaining unit I have a majority"?

Mr. MacDonald: No, I do not see any difference at all.

Mr. Lewis: In your opinion, was that the issue before the Board in the case of these applications?

Mr. MacDonald: It was. In each instance the applicant union wanted to carve out the group where it felt it could establish its majority. Therefore, having failed to do so, we see the results in Bill C-186. They are not able to succeed in playing the game under the rules that apply to everyone else, so they succeed in an effort to at least try and change the rules of the game.

Mr. Lewis: One of the earlier questioners suggested—I am sure I am correct—that the Canadian Labour Congress is determinedly bound by the proposition of national bargaining units. Mr. MacDonald, would you refer to paragraph 31 of your brief. If I may read it, this is what you said:

We wish to make it clear that we do not oppose local or regional units as a

matter of principle. Such units have been certified by the Canada Labour Relations Board where the Board has found them to be appropriate. But we do object to a legislative enactment which is coercive in its implications...

• 1615

And you also add that it is partisan.

The questions I would like to ask you, in order to obtain the information accurately from you, are these. Is your basis of opposition to Bill C-186 that under all circumstances you oppose the fragmentation of national bargaining units, or is the basis of your opposition that the Board must retain the discretion it has always had to make decisions in accordance with the facts?

Mr. MacDonald: The latter is the case. The Board must be left to make its decisions on the basis of the facts as they exist at the time.

Mr. Lewis: On the basis of the facts in the past the Board has mainly refused to fragment existing or established national bargaining units.

Mr. MacDonald: Mainly.

Mr. Lewis: Yes; there have been exceptions to that.

Mr. MacDonald: Yes.

Mr. Lewis: At the second or third hearing of this Committee, Mr. MacDougall, whom of course you know, outlined to this Committee the criteria which the Canada Labour Relations Board has followed in the past. I think you will find them on page 50 of the minutes, Issue No. 3.

The Chairman: What page did you say Mr. Lewis?

Mr. Lewis: Page 50, towards the bottom of the left-hand column. I would like to ask you from your experience as a member of the board whether his statement, as far as you can recall, is correct? He says:

It considers in the determination of bargaining units...

a number of criteria. First:

...the purposes and provisions of the legislation administered by the Board, particularly those which govern the establishment of appropriate units; second, the mutuality or community of interests of the employees or groups of employees...

Third:

... the past bargaining history of the bargaining unit in question...

I suppose that relates to the established national unit over a period of time.

Mr. MacDonald: Right.

Mr. Lewis: He states further:

... fourth, the history, extent and type of employee organization involved in the unit determination.

And then in the next column he says:

The past bargaining history, and then the history, extent and type of employee organization...

And then he says:

... the history, extent and type of organization of employees in other plants of the same employer or other employers in the same industry...

And another criterion:

... the skill, method of remuneration, work and working conditions of the employees...

I suppose that relates to community of interest, as I have always understood it. And then:

... the desires of the employees as to the bargaining unit in which they are to be embraced... after expression by means of a vote...

And then there are one or two others that are not relevant here. Broadly speaking, are those the criteria, from your experience on the Board, that you have followed?

Mr. MacDonald: Yes, broadly speaking they are.

Mr. Lewis: As a member of the Board, in the case of the Angus Shops of the CPR in Montreal, the application to fragment it, to lop it off a national bargaining unit, and in the case of the CBC production employees, were your decisions based on the application of these criteria of the board?

Mr. MacDonald: Yes.

Mr. Lewis: And have these criteria of the Board been consistently applied by the Board in all applications that you have had anything to do with as a member of the Board?

Mr. MacDonald: Yes, and long before I was a member.

Mr. Mackasey: May I ask a supplementary question, Mr. Chairman? Do you see anything in the Bill, Mr. MacDonald, that would eliminate these criteria?

Mr. MacDonald: They would...

Mr. Mackasey: Would they not be as valid if the bill were passed as they are now?

Mr. MacDonald: No, they would not be as valid, as is evident. There would be new criteria introduced.

Mr. Mackasey: Yes, but these criteria would not be eliminated.

Mr. MacDonald: They would be restrictive of the discretionary power of the Board.

Mr. Mackasey: You say new criterion—in the singular—would be introduced?

Mr. MacDonald: No, I believe I said criteria.

• 1620

Mr. Lewis: Let me follow it up, Mr. Mackasey. I was going to follow it up in any event because an attempt has been made throughout these hearings to suggest that the Bill does not add anything.

Mr. MacDonald: It certainly does.

Mr. Lewis: Looking at subclause (4a) of clause 1 of the Bill, Mr. MacDonald, and looking merely at the word "may", that "the Board may... determine the proposed unit to be a unit appropriate for collective bargaining", I suppose you would agree with the Minister without Portfolio that as far as the words are concerned they do not in fact spell out as words, forgetting the context, any more powers than you now have under the Act where your discretion is unlimited. Would you agree with that?

Mr. MacDonald: That is right.

Mr. Lewis: I gather therefore that you are saying to this Committee that the passing of this amendment gives a directive to the Board, as you say in your brief, to give this criterion established in 4a particular status.

Mr. MacDonald: That is right, and there is no doubting it. It is a directive, it will be enshrined in the legislation, and the Board would have no alternative but to give it every possible weight, and naturally every decision that the Board would take could be appealed

on the basis that it had not given proper consideration or due weight to that new criterion.

Mr. Lewis: I have already expressed my view on this to this Committee but you can ask questions about it.

Would you look at clause 5 of the same Bill, and subsection (2) of new section 61A, which is the clause of the Bill that establishes an Appeal Division of the Board. Then it says:

Notwithstanding subsection (2) of section 61,...

which is the subsection that says in effect that there is no appeal from decisions of the Board

...a decision of the Board on an application made as described in subsection (4a) of section 9...

which is the new section that was not there before. Is it not clear from this subsection of the Appeal Division that even if the Board should pursue its previous criteria and ignore 4a of the new section, the Appeal Board could not ignore it when its appeal authority resides only in this new subsection?

Mr. MacDonald: Mind you, it could not. It would have to have regard to it and give it weight.

Mr. Lewis: Now I want to go to another area which has been touched on and then to one or two other areas that were touched on at earlier hearings but not today.

A great deal has been discussed with you about the representative nature of the present Canada Labour Relations Board. As you pointed out earlier today, the representation is four from the employer group and four from the employee group in the community.

Mr. MacDonald: Plus a chairman and vice-chairman.

Mr. Lewis: From your experience and knowledge of these things, could you tell the Committee what in your opinion—I have my own which I will state to you—what the nature of the representation established by the Act is or is intended to be.

Mr. MacDonald: If I understand your question correctly, and I am not sure that I do, it is exactly what is stated in the Act, that representation is on the basis of people from the employer group on the one hand and the employee group on the other hand, and we would hope those would be people of knowl-

edge, experience, background and good judgment who would be able to bring the weight of their knowledge and experience to bear on the cases before them.

• 1625

Mr. Lewis: Perhaps I did not make my question as clear as I should have. Both from reading the Act and from your own experience as a member of the Board, is it intended that the employer representative defend the interests of the employer on the Board and that the labour representative defend the interests of labour on the Board, or are they there because of their experience and the contribution they can make to the determination of a practical problem that comes before the Board.

Mr. MacDonald: I think the latter is the case. It is not unknown for the lines to cross, in other words for the employer representatives on the Board and some of the employee representatives on the Board to vote in one way and the others to vote in another way. My own experience on the Board is that these people try to discharge their responsibilities in a completely honest and unbiased way.

Mr. Lewis: Mr. MacDonald, I must agree with some other members of the Board who questioned whether any other suggestion is a matter of questioning the honesty or integrity of the members of the Board. I think what has been suggested in questions to you and to others is that since members of the Board are human beings they cannot avoid being partisan—it is not a question of honesty—and defending the particular interests of a group that is represented before the Board. That is the issue that they are trying to press on you and on which certain representations have been made here. In other words, when there is a conflict of interest between a union affiliated with the CLC and a union affiliated with the CNTU, you as a member of the Board and President of the CLC—and I know that I am putting it roughly—are humanly incapable of escaping the partisan defence of the CLC union application. That is what is suggested to you, and that is the point I am trying to put in very clear terms.

Mr. MacDonald: That has been suggested this morning, and I have denied it. I suppose that each individual is perhaps the poorest judge of his own impartiality or objectivity, but I certainly think that as far as possible the individual members of the Board try to acquit themselves in this way.

Mr. Lewis: Well in order to nail this down if I can, because I have been as annoyed as some others about these suggestions, let me revert and give you the reason I refer to Mr. MacDougall's criteria. When you get an application before the Board from the CLC, CNTU, teamsters or any other organization you have to decide on the appropriateness of and you have to decide on the appropriateness of a bargaining unit, is it not true that all the members of the Board, employer and employee members of whatever organization they may be, attempt to the best of their judgment to apply those criteria and that those govern your decisions and not any particular interest.

Mr. MacDonald: That is right. I tried to convey this morning that the Board members in my experience always have been extremely conscious of the legislation, the rules of the regulations and the jurisprudence. I suppose that my bias in favour of the Board shows through here but I do believe—you would know a great deal more about it than I as a practising lawyer—that the record of the Board in itself proves the case beyond argument. Certainly if it was on the basis of people who were biased and prejudiced the record of the Board could not have withstood the test of time as it has and enjoyed the confidence of the employers and employees of this nation as a whole.

Mr. Lewis: I am sorry, Mr. Chairman, if I am belabouring a point but Mr. MacDonald, both as President of the Congress and as a member of the Board, can help us with these matters. I am going to take you directly to the applications at the CBC and at Angus Shops which were the cause of the legislation which we are now considering.

• 1630

The Chairman: May I ask a question here along your line, Mr. Lewis? Would it be fair to say then, Mr. MacDonald, that the essential purpose of the Board is to define in its best judgment and to defend the public interest?

Mr. MacDonald: Yes.

Mr. Lewis: Mr. Mackasey was going to ask a question.

Mr. Mackasey: This might be a small point, but you are asking questions, not making statements. I do not mind that, but three times you have made the statement that this Bill has come directly out of two particular cases. Now, this is an implication that

remains to be proven; it you repeat it often enough we will begin to believe it.

I am quite impressed by Mr. MacDonald's testimony; I have known him for a long time as a very competent, eloquent person and I think if you just ask the questions he is quite competent to give us the answers.

Mr. Lewis: Mr. Mackasey, I asked the question that way because I believe that is the case.

Mr. Mackasey: Well, then, just ask the question. Never mind telling us the reason why the Bill is before us. We all have our own suspicions, but on the other hand...

Mr. Lewis: Mr. Mackasey, I am going to ask questions in the way I think appropriate and not in the way you think they should be put. I call to witness the statement of the Minister of Labour before this Committee as to how this legislation arose. I am not going to take time to read it, but I ask you to re-read it and you will find that my statement was entirely accurate.

Let me take you very briefly through the criteria that Mr. MacDougall gave us. When you consider the purposes and provisions of the legislation which you have to administer in determining a bargaining unit, can you tell us what you, as a member of the Board, conceive to be the purposes of that legislation in the determination of the machinery of collective bargaining, which is what a determination of a bargaining unit, in part, means?

Mr. MacDonald: I must confess that I am having great difficulty. Obviously it is due to a lack of intelligence on my part. I must confess that I am having extreme difficulty in understanding the questions.

Mr. Lewis: Well, it is my fault, I am sure, and not yours. Mr. MacDougall told us that one of the criteria which you take into account when you determine a bargaining unit is the purposes and provisions of the legislation which you administer.

Mr. MacDonald: Right.

Mr. Lewis: I am merely asking what you consider to be the purpose of the legislation. Is it orderly bargaining?

Mr. MacDonald: The purpose of the legislation, in very brief and general terms, is to try to maintain orderly industrial relations within the economy of this nation. That is about as brief as I can be and, at the same time, say what I conceive to be the end purpose of the

legislation. May I add also, Mr. Lewis, that I think the Board has been extremely successful in this regard.

Mr. Lewis: Would it be correct to conclude, then, that in the considered opinion of the Board, splitting off the Angus Shops or the Montreal employees of the production unit of the CBC would be contrary to orderly bargaining that the purposes of the legislation are intended to achieve?

Mr. MacDonald: Yes, without doubt.

Mr. Lewis: And that that was the reason for it?

Mr. MacDonald: Exactly.

Mr. Lewis: Would I be correct in concluding that was the situation when you considered the mutuality of interest of employees of the CPR and the CBC and all the other criteria that Mr. MacDougall gave?

Mr. MacDonald: Yes.

Mr. Lewis: I do not want to take too long, but I want to say to you that during previous hearings which you did not attend there were questions about the autonomy of Canadian unions and the autonomy of the Canadian Labour Congress or the Canadian centre. I do not know of anyone except the President and other officers of the CLC who can give this Committee the necessary information on that point. Would you first tell us, Mr. MacDonald, about the set-up of the Canadian Labour Congress and whether or not it has any relationship with, or is in any way controlled or influenced by, any labour centre in any other country?

Mr. MacDonald: The Canadian Labour Congress was created in 1956 through a merger of the Trades and Labour Congress of Canada and the Canadian Congress of Labour. It was established as a national Canadian labour centre completely autonomous and independent. It does not take direction, guidance or anything else from anywhere but from within itself.

• 1635

We are affiliated to only one body in the world and that is the International Confederation of Free Trade Unions and its regional organization within the western hemisphere, the ORIT. Needless to say, like every other Canadian I have read the utter claptrap that is constantly appearing in publicity and in editorial columns and elsewhere in this nation. I say that any suggestion to the con-

trary is completely untrue and I say that as the acting chief executive officer.

If anyone wants to study the record they will find out—and it is not hard to discover—that there have been efforts occasionally, fortunately infrequently, I should say, to try to influence the Canadian Labour Congress from outside, and I am delighted and proud to say that never once have they succeeded; never once. On the world scene there have been some pretty historic experiences in this connection. I am now talking about the international world scene.

Mr. Lewis: You are talking about differences that the Canadian Labour Congress has had with the AFL-CIO representatives on the ICFTU board?

Mr. MacDonald: That is right.

Mr. Lewis: And that you have disagreed there?

Mr. MacDonald: Very vehemently. Incidentally, we did not lose, either.

Mr. Lewis: My final question for the time being, Mr. MacDonald, relates to the certification of the CUPE local union with regard to the production workers of the CBC. Mr. Mackasey and I, as a result of the way I am going to put my question to you, may have another exchange, pleasant as always.

Mr. Mackasey: Not if you put a question instead of a preamble.

Mr. Lewis: There is going to be a preamble to my question so that Mr. MacDonald will understand it. Tell us if you will, Mr. MacDonald—and this is the first part of my question—what is the normal procedure of the Canada Labour Relations Board with regard to the length of time it takes to make a decision after a hearing which does not result in a vote? If you follow me, there are two situations that you face. One situation is where you have a hearing and you may find it necessary to order a vote; another situation is where you have a hearing and you are satisfied that the applicant union has more than 50 per cent of the employees in the bargaining unit as members and you decide not to order a vote. In the latter case where you decide that a vote is not necessary, what is the usual delay before the Board makes a decision?

Mr. MacDonald: From what time?

Mr. Lewis: From the time of the hearing.

Mr. MacDonald: From the time of the hearing? Sometimes it is within a matter of hours.

Mr. Lewis: You have a hearing and then you immediately go into executive session and make the decision?

Mr. MacDonald: This frequently happens.

Mr. Lewis: I suppose it sometimes happens that you take two or three days?

Mr. MacDonald: That is right.

Mr. Lewis: Do you ever take much longer than that if there is no vote ordered?

• 1640

Mr. MacDonald: No; very, very seldom. As you know from experience, invariably after the hearing the decision is reserved and if time permits, and it often does, the Board goes into executive session as you have suggested and, if there are no complicating factors, if everything is clear cut, the Board can arrive at a decision as I say within a matter of hours. This is frequently the case. I should perhaps also add although you described two typical types of applications and their dispositions, there is still a third. There is the type of application that is received and in which the prima facie evidence of the majority of a desired appropriate bargaining unit is on the basis of the evidence submitted. It is immediately apparent after the staff have examined it that it is an appropriate collective bargaining unit in which the applicant union has an unchallenged and established majority from the outset. Perhaps in such a case there might not be an intervener, so there would not be any hearing.

Mr. Lewis: In those cases you would have no hearing?

Mr. MacDonald: No.

Mr. Lewis: If I remember correctly, you only have a hearing when one of the parties asks you to hold a hearing.

Mr. MacDonald: Or if the Board decides that one is required.

Mr. Lewis: But you may have certification without a hearing?

Mr. MacDonald: Yes.

Mr. Lewis: Was it an unusually brief delay or was it normal when the CUPE application was granted certification a week or two ago within several days of the hearing?

Mr. MacDonald: I would say it was normal.

Mr. Lewis: Some of the misunderstanding about that case arose from a statement made by the Minister, as reported in the press—he is present and will correct it if it is wrong—that he did not expect a decision to be made very quickly, there would be some time between the hearing and the decision, with the result that people were surprised that the time he suggested it might take did not lapse. I think it is necessary to clear up that point before this Committee.

Mr. MacDonald: Is that by nature of a question to me?

Mr. Lewis: By nature of a question as to whether the Minister who made the comment that there would be such a lapse of time was mistaken.

Mr. MacDonald: I do not know which Minister said it. I did not hear him and I do not know anything...

Mr. Mackasey: Thank you, you are very kind.

Mr. MacDonald: I heard it mooted, of course. This was supposed to have taken place at the time of the presentation of the CNTU annual legislative memorandum.

However, speaking as an individual, if any minister, M.P. or anyone else ever tried to interfere or delay a decision of that Board while I sat on it, I would walk out.

Mr. Lewis: So in this particular instance you merely followed your usual procedure?

Mr. MacDonald: There was absolutely nothing that was not normal in that case. It was a clear-cut case. I quoted the figures on that particular case this morning, as you no doubt recall, which showed that the established majority of the unit as a whole was 55.5 per cent. In this instance the Board decided, because there was a clear-cut majority of the established unit, that a vote was not necessary and they proceeded to issue a certification forthwith.

Mr. Lewis: I have no more questions at the present time, Mr. Chairman. I may want to come back, but I do not want to take any more time now.

The Chairman: Mr. Émard's name is next on my list.

Mr. Gray: On a point of order, it is true that Mr. Émard is next on the list but...

Mr. Émard: I will wait.

The Chairman: I wish one of you would not be so reluctant.

Mr. Émard: I do not mind...

The Chairman: Mr. Émard is next, but if he wants to wait...

Mr. Émard: Is Mr. Lewis finished?

The Chairman: Yes.

Mr. Émard: He told me five or six questions ago that it was his last question, so I was not sure.

Mr. Lewis: I did not, Mr. Émard.

The Chairman: He is finished.

[Translation]

Mr. Émard: Mr. Chairman, I too would like to offer my congratulations to Mr. MacDonald, and to the members of his Committee for the excellent presentation of the CLC's brief. I notice that your presentation and your attitude contrast very strongly with the presentations and the attitudes of some of your predecessors, and this is entirely to your advantage.

You mentioned this morning that your unions are not all certified by the CLRB. Could you give us an example of one and explain the reason why, or did I misunderstand you?

[English]

Mr. MacDonald: It is probably my fault, Mr. Émard, but I do not understand the question.

[Translation]

Mr. Émard: This morning you mentioned that not all the unions which are affiliated to the CLC are not necessarily certified by the CLRB.

Could you give us an example of one and explain the reason for it, or did I misunderstand your statement this morning?

• 1645

[English]

Mr. MacDonald: You understood it correctly and it was right. Of course the Canada Labour Relations Board, working under the authority of the Industrial Relations and Disputes Investigation Act, only has jurisdiction in the matter of unions concerned with shipping, transportation and communications with the Northwest Territories, and such undertak-

ings that may be declared to be—I do not know if I am quoting the exact words—in the general interest of Canada. I cannot be precise, but I think that approximately 10 per cent of the workers of Canada through their unions would come under the jurisdiction of the Canada Labour Relations Board.

Of course the vast majority of the other undertakings in the private sector come under the jurisdiction of the 10 provincial labour relations boards. In addition to that, there are unions of ours that do not, by their very nature, seek certification. Offhand, I am thinking, for example, of some of our unions in the entertainment field as well as others. There are unions that sometimes, in trying to enforce these standards, follow the practice of establishing standards by their own yardstick. This is the type of thing that I had in mind. Actually I would say that some of our unions—quite a number of them, I could not be precise—have never had occasion to make an application to the Canada Labour Relations Board at all.

Mr. Lewis: Mr. Émard, if I may try to be of help to you, you may find the explanation for what Mr. MacDonald has indicated in sections 12 and 13 of the Act. If you have an agreement without certification you are entitled to give notice to bargain.

Mr. Gray: May I ask this question for clarification? Industries such as the steel industry, the packing industry and the auto industry do not come under the jurisdiction of the Industrial Relations and Disputes Investigation Act and therefore do not come under the jurisdiction of the CLRB?

Mr. MacDonald: That is right, Mr. Gray. They are all under provincial jurisdiction.

An hon. Member: They are all certified?

Mr. MacDonald: Oh, yes, they are all certified provincially. However, there are unions that are not certified. I belonged to a union for most of my life—I do not happen to belong to it right now, but I did for many years—that had no certifications whatever. There are other such unions that have received recognition from their employers that were established long before the legislation was ever enacted, and of course they continue to negotiate their collective agreements with their employers.

[Translation]

Mr. Émard: We have discussed a great deal, before the Committee, about the integri-

ty of labour members on the CLRB. And you maintain, if I understand correctly, that the representatives, even if in some cases, they are recommended by your organization, the CLC, are absolutely free and guided by their own conscience and integrity. What would be your reaction if the majority of labour representatives on the CLRB were recommended by a rival union?

[English]

Mr. MacDonald: If I belonged to minority organization I would have no objection to it.

In the course of the discussions today I have already spoken about the position of all four of the labour nominees, and whether I specified it or not, I certainly meant to include the nominee of the CNTU. He is a man of just as high integrity as any person I have ever known and he operates in exactly the same way as the other members of the Board, so I am not trying to say that there is a difference in that at all.

[Translation]

Mr. Énard: Am I speaking too fast for the interpretation? Am I speaking too fast?

[English]

Mr. MacDonald: No, the translation is coming through very well.

[Translation]

Mr. Énard: In *Le Devoir* some time ago, I read that the president of the Great Lakes region of the IBEW is refusing to supply French copies of his report to members in Quebec, because he said that if he were to, he would have to do so for all other ethnic groups.

Do you believe that the French language in Canada has a different status than that of other Canadian ethnic groups?

• 1650

[English]

Mr. MacDonald: I am not quite sure what relation this has to Bill C-186, but I do not mind answering. I think the answer lies in the policy of the Canadian Labour Congress and our practices. We recognize both French and English as official Canadian languages and we produce all our materials in both languages, so I think that the answer lies there. I should elaborate that on some special occasions it has not been unknown at all—in fact, it has been very frequently experienced in recent years, especially since the flood tide of immigration—that on an organizing cam-

paign or something of that nature, we will produce organizing literature in other languages; but the material, all the official documentation and all the proceedings of the Canadian Labour Congress, are in the two official Canadian languages.

[Translation]

Mr. Énard: If an affiliate of yours were to refuse to supply documents in French, for instance, in the precise case that I mentioned, where approximately 90 per cent of the employees are French-speaking Canadians, could you do anything?

[English]

Mr. MacDonald: Not other than to try to persuade. Our affiliates are completely autonomous affiliates. We have no control over them in that sense. We have no way of directing them or forcing them. They affiliate with us on a voluntary basis and they can disaffiliate on a voluntary basis at any time they so wish. I will say that we have tried in similar cases to that which you describe, of which I have no knowledge, to tell you the truth, and we certainly have endeavoured to use such moral suasive powers that we have in order to get organizations to do what we believe to be right.

Mr. Gray: I believe this case, if I am not mistaken, involved the IBEW, Great Lakes region, according to a report I saw, I believe, in *Le Devoir*.

Mr. MacDonald: That is the one Mr. Énard I think was referring to. I am not familiar with that. In fact, I did not even know that there was a... what is the title of the person in the IBEW?

• 1655

Mr. Gray: I think there is a region. I may not have the exact title of the region but it includes London and Toronto and Montreal.

Mr. MacDonald: I did not even know there was a regional director for such a region.

[Translation]

Mr. Énard: All I know is what I read in *Le Devoir*.

I do have another question. Where there is no certification in a certain sector, do you not believe that the CLRB should give a certificate to represent a limited group of employees rather than requiring the majority of employees in this particular sector? At the present time, I am thinking of bank

employees. Most banking employees are not organized because they are in small locations and it is very difficult for any union to obtain a majority of the employees of a certain bank.

Do you think that you are able to reply to my question?

[English]

Mr. MacDonald: I must confess that the first part of the question I did not understand. The second part with respect to banks I do understand, and I am prepared to answer it.

[Translation]

Mr. Émard: When there is no certification in a certain sector, do you not believe that the Canada Labour Relations Board should grant a certification to represent a limited number of employees, that is to say, perhaps one branch or two or three of a bank rather than requiring the majority of the employees of the entire sector?

[English]

Mr. MacDonald: I think I understand the question, though I am not certain. I tried to point out earlier today that the Board will, consistent with the criteria that have been talked about, certify units on a local or regional basis now and has done so and does so frequently. I might be wrong in this but I feel there is an impression that the Board deals only with national certifications in system-wide bargaining situations, which is not the case. There are many, many, many individual certifications granted by the Board on the basis of an application from a union for a group of employees, on a local basis or a regional basis, as the case may be, and the Board, having regard to all the facts, certifies. In the case of the banks, we are perhaps at as great a loss as anyone. There recently was a certification for a unit on the Island of Montreal...

Mr. Lewis: Is this the Montreal City & District Savings Bank?

Mr. MacDonald: The Montreal City & District Savings Bank. That is to my knowledge the first certification that has been granted in Canada for bank employees, and in this instance—I am not certain of my ground on this but I think that all the branches of that particular bank were included in the application. The Canadian Labour Congress affiliates have, on at least two occasions that I am aware of, endeavoured to organize banks and

the Board has refused to certify on the basis of the applications that were filed and I think in each instance declaring that the unit applied for was not appropriate. You will understand that in these circumstances the Board is not obligated to then define what constitutes an appropriate collective bargaining unit. Therefore, the Congress affiliates had no alternative under the circumstances, but I suppose that by trial and error, as in this case in Montreal, and there will be more I hope, they will try to organize units that the Board will accept as being appropriate.

• 1700

[Translation]

Mr. Émard: Mr. Chairman, in closing, I would like to ask two questions, taking advantage of the presence of Mr. MacDonald to get an answer. These questions do not refer to Bill C-186, but I would like to tell Mr. MacDonald that I ask them in all objectiveness, not to embarrass him, and that he can answer if he wants to or refuse to answer.

[English]

Mr. MacDonald: That is a frightening preface to the question.

[Translation]

Mr. Émard: This refers directly to the CLC. You do not need to answer, Mr. MacDonald.

There are two things I would like to know. Has your organization a program to organize 70 per cent of the Canadian workers who are not unionized; as M.P.'s we are very interested in the matter.

Secondly, is the Canadian Labour Congress trying to free Canadian unions from American influence?

[English]

Mr. MacDonald: You asked me to be objective. It is unfortunate that you did not see your way clear to be objective in your questioning. Nevertheless, I will try to deal with your questions.

Mr. Émard: I said I was trying to be objective, sir; I did not ask you to be objective. I said you may or you may not answer.

Mr. MacDonald: The translation came through that you were asking me to be objective.

Mr. Émard: No, I said that I was trying to be objective and that you did not have to answer.

Mr. MacDonald: In any event, when you ask about a program to organize the 70 per cent of the unorganized workers of Canada, I would say yes, that our efforts are bent continuously to organize the unorganized. That applies not only to the Congress but in even greater measure to our affiliates who are trying by every means at their disposal to organize those unorganized workers residing within their jurisdictions. I think we are having some degree of success but I am certainly not happy with the situation as it exists at the moment.

Mr. Émard: May I say, sir, that I asked the question because the county I represent has only small industries and nothing seems to be done to organize these industries. These people, are really working for wages very much below regular wages, and I get a lot of criticism.

Mr. MacDonald: I can sympathize completely with what you are saying. Our Executive Vice-President, Mr. Dodge, has responsibility for our organizational department—you can see that he is taking a note—and the situation will be looked into.

The Chairman: Does he know the county?

Mr. MacDonald: Yes, he knows it. We have every desire and every intention to organize every Canadian worker that we can possibly organize, and of course, as has been pointed out before, we do it on a voluntary basis in a democracy. There are countries in the world where they claim to be 100 per cent organized but they achieve their objective in that regard in a different way than we do.

The second question you asked me was whether any effort was being made to liberate our Canadian unions from American influence. I will say, no, because there is no necessity. Liberation connotes captivity and lack of freedom, and I say to you that it does not exist. Again, a tremendous myth has been built up in this country about people being captive, being dominated from forces outside of this country and all the rest of it.

The Chairman: Not only in this field.

Mr. Émard: I mentioned the American influence, not domination.

Mr. MacDonald: Yes, but I do not know what liberation would mean other than freeing one from captivity, and there are no captives.

Mr. Émard: All right then, I will discuss it with you, personally.

The Chairman: I think Mr. Émard has a slogan something like "The CLC libre", is that correct?

• 1705

Mr. Boulanger: Mr. Chairman, may I ask a supplementary on Mr. Émard's first question?

The Chairman: Yes.

Mr. Boulanger: In French we call clerks in banks and in stores "commis". There are "commis de magasins" and so on. There are only two or three clerks in many, many stores but in total they run into the thousands.

Mr. MacDonald: That is right.

Mr. Boulanger: Has any affiliate of yours in Quebec or in any other province acted in the interests of this group and made real progress?

Mr. MacDonald: We have three affiliates, as a matter of fact, that are working in this field, and as you indicated by the tone of your question, it is a tremendous problem. As I said, we have three affiliates, and I am told by my colleague that we have about 43,000 members among these three affiliates. It is a tremendous field but the problems too are monumental in trying to attack the type of thing that you have illustrated, a one, two, and three-employee establishment. There have been some recent successes of which you are probably aware in your own province. I think one of our affiliates has done extremely well in organizational progress in the past year, particularly in Quebec.

Mr. Émard: In support of what Mr. MacDonald just said, could I add that in a campaign over the French network clerks who want to be organized are asked to contact certain unions.

Mr. MacDonald: Yes.

The Chairman: I draw the Committee's attention to the fact that we are really trying to aim for that six o'clock deadline. I have Mr. Barnett, Mr. Reid, and Mr. Gray. And you, Mr. Mackasey?

Mr. Mackasey: In view of Mr. Lewis's preamble and the allegations made, I have no other choice but to participate.

The Chairman: All right, and then Mr. Munro will follow.

Mr. Mackasey: I want to clarify a few minor points.

The Chairman: Then we have Mr. Barnett, Mr. Reid, Mr. Gray, Mr. Mackasey, and Mr. Munro in that order, and we have 50 minutes.

Mr. Barnett: Mr. Chairman, I have two areas of questioning, neither of which I hope will take too long. My first question arises from the reference made this morning to section 58 of the Act which sets out the matter of the composition of the Board and the manner of its appointment. It makes reference to the fact that in addition to the chairman there will be "not exceeding eight..." consisting of an equal number of representatives of employees and employers. I was wondering, Mr. MacDonald, if you could tell us whether this maximum number of eight, which I understand is presently on the Board, has been the membership of the Board since it was first appointed and set up?

Mr. MacDonald: Yes, it was. There have been vacancies from time to time due to death and resignation, but that has been the composition.

Mr. Barnett: That has been the normal composition of the Board?

Mr. MacDonald: That is right.

Mr. Barnett: As the legislation stands would you say that it is quite within the power of the Governor in Council to alter the number of members on the Board within the limits that are set out in the Act, that in other words they could set up a Board with six in addition to the Chairman...

Mr. MacDonald: Yes.

Mr. Barnett: ...or, conceivably, have a three-man Board.

Mr. MacDonald: Being a layman, I would defer to the lawyers on the Committee but, as I understand the legislation, it says "not exceeding eight". Therefore, in my view, there would have to be an amendment to increase that number.

• 1710

Mr. Barnett: To increase it, but not to decrease it?

Mr. MacDonald: That is right.

Mr. Barnett: With reference to section 58(2) which states:

(2) The members of the Board shall be appointed by the Governor in Council to hold office during pleasure.

First, would you agree that underlines the point that the composition or the number of members of the Board, providing the balance is maintained at any given time, is at the discretion of the Governor in Council? In other words, if they wished they could say tomorrow to three or four members of the Board, "Your term of office has expired".

Mr. MacDonald: Yes, it is entirely within its power.

Mr. Barnett: In connection with the appointment by the Governor in Council of members to the Board, could you enlighten the Committee and myself on what, in practice, has been the process of appointment? I believe you made reference earlier today to the fact that you had succeeded the late Mr. A. R. Mosher as a member of the Board. In what way did your appointment to the Board come about? Was an approach made to you or was it made to the Congress?

Mr. MacDonald: An approach was made to the Congress. When Mr. Mosher died the then Minister of Labour officially asked the Congress through President Jodoin to submit the name of a nominee, and my name was the one submitted for nomination to the Board. It was obviously acted on favourably by Order in Council.

Mr. Barnett: Has this normally been the practice of governments from time to time, to accept the proposed nominees from the organization which they invited to propose names?

Mr. MacDonald: For the Canada Labour Relations Board as such?

Mr. Barnett: Yes, for the Canada Labour Relations Board.

Mr. MacDonald: Yes, it has been. I would take it for granted if either Mr. Arthur Daoust or I were to leave the Board...if our positions were to become vacant...that the Minister of Labour would ask the Canadian Labour Congress to submit nominations to succeed us.

On the other hand, I suppose they would follow the same practice with respect to the CNTU nominee and the running trades nominee. In fact, I believe the Minister said

something in connection with the employer nominees as well. I believe it is the Canadian Chamber of Commerce, the Canadian Manufacturers' Association and the Canadian Construction Association which are normally asked for nominations.

Mr. Barnett: As far as you know, in all cases the government has accepted the nominee which is proposed by the body they have invited to propose a nominee?

Mr. MacDonald: Yes, in my experience on the Canada Labour Relations Board.

Mr. Barnett: But if the government at any particular time considered a proposed name to be one that did not meet their pleasure, could they say to the organization they had invited to propose a name, "We do not feel we can accept this person"...

Mr. MacDonald: That is entirely within their right.

Mr. Barnett: ...and ask them to propose another name or go to some other body, if they wished?

Mr. MacDonald: I do not know of any instance where this has happened in the nominations for the Canada Labour Relations Board, but we have always accepted the principle that if we submitted a nomination that was not acceptable the government was not obligated to act on it. I suppose, although it has never happened, presumably the government could come back and ask us to make another nomination. This is what I would expect them to do.

The Chairman: What about going to other sources, as Mr. Barnett suggested?

Mr. MacDonald: To other sources?

The Chairman: Was that not the latter part of your question?

Mr. Barnett: That was the latter part of my question. As the legislation stands the government is quite free, if it so wishes, to go to some other source to request a name.

The Chairman: What is your reaction to that?

Mr. MacDonald: I suppose they would be entirely within their authority to do so. Originally, as was said earlier, each of the four labour nominees were nominated by a different organization. It so happens that at least two of them at present are recognized as the

nominees of CLC. The legislation, as I read it at least,—and this is subject to correction by more knowledgeable people—indicates the government could exercise its discretion in that case.

• 1715

Mr. Barnett: I think basically that is the point I felt should be brought out, and I thought it might be useful to have some understanding of just what the practice has been and how the legislation has operated.

Mr. MacDonald: In this connection, Mr. Barnett, although it did not relate to the labour nominees on the Board, on one occasion when there was a vacancy in the vice-chairmanship of the Board, on behalf of the Congress President Jodoin and I took it upon ourselves to recommend privately to the government that the person to be appointed as vice-chairman should be bilingual. In that particular case our recommendation was not acted upon.

Mr. Barnett: It was not acted upon?

Mr. MacDonald: There was a vice-chairman appointed, but he was not bilingual as we had suggested.

Mr. Boulanger: What year was that?

Mr. MacDonald: I could not be sure. It would be within the last three or four years.

Mr. Boulanger: It is very important because somebody is going to make an issue of that. Can you remember what year that happened?

An hon. Member: It was not the present government, was it?

Mr. MacDonald: Yes, it was the present government.

Mr. Barnett: I would now like, Mr. Chairman, to turn more directly to the Bill. A great deal of the questioning, in fact, virtually all of the questioning about the implications of the proposed clause 4(a) of section 9, and the follow-through which involves the setting up of an appeal division of the Board, has centred around the question of the implications for regional or area certification in the eastern part of the country. I think some of us on the Committee are also concerned about the possible implications in other parts of the country. Would you agree, Mr. MacDonald, that the proposed legislation in its present form is Canada-wide in its

application as far as the implications it may have in determining the course of action to be followed by the Board?

Mr. MacDonald: There is no question whatever but that it applies to the jurisdiction as a whole.

Mr. Gray: The federal jurisdiction?

Mr. MacDonald: Yes.

Mr. Barnett: As you probably know, I represent a British Columbia constituency in Parliament. This is sometimes regarded by some people as a fairly distinct regional area. I was interested in this connection...

Mr. MacDonald: We try not to be parochial within the Canadian Labour Congress.

Mr. Barnett: I fully appreciate that.

Mr. MacDonald: I never mention Cape Breton, for example.

Mr. Barnett: I am interested, however, Mr. MacDonald, in the reference on page 25 of your brief where you refer to the cases that have appeared before the Board and its predecessor, the WLRB, and you give as an example an application by the Teamsters...

Mr. MacDonald: Yes.

Mr. Barnett: . . . to be certified as a bargaining agent for:

All employees employed by the Canadian Pacific Railway Company in its Merchandise Service at Vancouver, B.C., Victoria, B.C., Duncan, B.C., Nanaimo, B.C., Port Alberni, B.C., Courtenay, B.C., and Campbell River, B.C.,

And then there is tagged on:

. . . or elsewhere in Canada.

Do you consider this particular application to have been one that was basically area or regional in scope at the time?

Mr. MacDonald: I do not think that yardstick was applied, really. That unit described here was part of a national unit that had been declared appropriate by the Board and has been certified to the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees; therefore there was an existing national unit, and the Board decided that to break away this group would be to fragment the unit, that it would not be in the best interests of all con-

cerned, and that therefore it should not be done.

• 1720

There was another point at that time, that might relate to that phrase at the tail end of the description that you have mentioned, "or elsewhere in Canada". The CPR at that time, as I recall, was saying that the merchandising service was not to finish at the point at which it had been introduced up to that time, and that its policy was to extend it. The Board certainly did not know to where it was going to extend it, how it was going to extend it or anything else about it, but obviously it would have meant the breaking up of an existing certified national unit. Therefore, the Board refused to certify it, and rejected the application.

Mr. Barnett: Mr. MacDonald, I had some knowledge at the time of the local reverberations...

Mr. MacDonald: So did we.

Mr. Barnett: . . . both before and after this application was heard by the Board. I do not mind telling you and the Committee that it would have been quite easy for some people to have made themselves politically quite popular in certain quarters...

Mr. MacDonald: And also to have made themselves politically popular within the trade union movement.

Mr. Barnett: . . . had they been disposed to suggest that injustice was being done to certain workers or groups of workers within the area.

I was interested in the reference to this in the brief of the Congress, because much of what I listened to then had a very similar ring to some of the things I have been hearing recently from certain other parts of the country. If this Bill, as proposed, were passed and an application similar to the one to which you have made reference were again to come before the board from that region of the country, would the Board perhaps find it necessary to take a rather different view of the application than it did at the time the decision was made in this particular case?

Mr. MacDonald: Without doubt, if the new restrictive criterion contained in the proposed amendment was enacted, the Board would have to view it in that light, which would certainly be different from how it viewed it at the time the application was made.

Obviously, the Board would have to have regard to the regionality of the situation, and would have to make a decision giving every possible weight to what I regard as the directive contained in that amendment.

Mr. Barnett: It has often been suggested that British Columbia is one of the higher-wage regions of Canada.

Mr. MacDonald: It is.

Mr. Leboe: That is right, Mr. Chairman; but before you go on, may I ask Mr. MacDonald whether or not he made his last statement as a member of the Board?

Mr. MacDonald: No; I am making it as the Acting President of the Canadian Labour Congress.

Mr. Leboe: Fine; thank you.

Mr. Barnett: As I was saying, it has often been stated—and it is probably correct—that British Columbia is one of the higher-wage areas of the country. As an officer of the Congress are you aware of the pressures that develop from time to time within higher-wage regions for a more localized area of bargaining which might result in making, for certain employees, again more in keeping with the general pattern of the particular area?

• 1725

Mr. MacDonald: We are very conscious of that, Mr. Barnett. You are quite right about the high-wage levels in B.C. There are people—obviously, such as those involved in your illustrative application—who feel that the principle of national bargaining and national certification is disadvantageous to their own individual and particular interests. There is no doubt about that. We know that this is so. They feel that they would do much better for themselves on a regional basis. However, it is part of the price we pay, I suppose, for standardization in the effort to have as much economic equality as is possible throughout the entire nation.

What adds to the irony of this particular amendment before the Committee is that the reverse would particularly be the case for everything east of Ontario. I very seriously doubt that the levels of wages which we presently enjoy on a national basis under the present system could possibly obtain under fragmentation in all the areas east of Ontario.

Mr. Barnett: In previous evidence given before this Committee we have had a good deal of emphasis on the fact that regional bargaining has raised wage levels in certain regions of the country. The point I am bringing out has not really been raised before. That is the reason for my questioning you on it.

Would you care to offer an opinion on what is a very real fear in my mind, should this legislation proceed with these pressures for fragmentation, that the applications for regional certification that might be placed before the Board from such areas as mine would probably far exceed those from certain other areas of the country, which it has been suggested, have given rise to the introduction of this Bill? Do you consider that to be a reasonable judgment on the situation across the country...

Mr. MacDonald: Yes.

Mr. Barnett: ...based on the knowledge that the Congress obviously has of the general pattern?

Mr. MacDonald: I think there would be a spate of such things. Not only would there be a spate but also, as I tried to indicate this morning, I think there is no doubt that each of them would be appealed.

In my personal view, which I have tried to make as reasoned as is possible in the light of my experience and knowledge, I can foresee nothing but absolute chaos in the federal industrial relations jurisdiction in such a situation.

Mr. Barnett: You are willing to agree that the pressures that would develop within many organizations now affiliated with the Congress could be such that they would have no alternative but to attempt to follow the course that was being opened by the legislation.

• 1730

Mr. MacDonald: Obviously it would give rise to tremendous rivalry and competition between the various groups, with the effect that that would have on the public interest and on the national economy. Each group that could be knocked off—to use our vernacular—would be certified on a local or regional basis, and would naturally try not only to maintain the level of its wages, working conditions, fringe benefits and all the rest of it, but would naturally try to do better than the other groups in the same field. I do not think

one needs much imagination to realize what the result would be with a multitude of such small groups vying with each other. At the same time they were trying to vie with each other they would be trying to get the most they could out of the situation, as well as trying to resist the pressures that would be brought to bear on them to permit their standards, their wages and everything else to be brought down to those considered viable within the regional or local area. I suppose one could go on indefinitely with this, but the picture is so clear to us that we find it difficult to appreciate why others cannot see the tremendous dangers that are inherent in this ill-advised piece of legislation.

The Chairman: Mr. Gray?

Mr. Gray: I think in fairness to Mr. Mackasey, because his name was brought directly into the proceedings by Mr. Lewis in the course of his questioning of Mr. MacDonald, that he should speak now.

The Chairman: That is no reason for Mr. Mackasey to ask questions, but if he wishes to ask questions he has other more basic rights. Go ahead, Mr. Mackasey.

Mr. Mackasey: Mr. Chairman, my question will be brief, of course. I might begin by saying that I agree with Mr. MacDonald in the main about the bad results of fragmenting, particularly in certain industries and certain unions. I share that opinion and you do not have to prove it to me.

We may differ a little on the effect that clause 1 has on criteria, and I would like to discuss this very briefly with you. Because of the good nature of Mr. Lewis I was earlier permitted to ask a supplementary question about the criteria which he read to you quite carefully from...

Mr. MacDonald: Mr. MacDougall's evidence.

Mr. Mackasey: Yes, in Issue No. 3.

Mr. MacDonald: Yes.

Mr. Mackasey: There is no point in my repeating what Mr. Lewis said. He read out the many criteria which have evolved from jurisprudence based on past decisions of the Board and which have proved over the long run to be fairly adequate. Mr. MacDonald, I asked if you thought these criteria would be as valid as ever, even if the bill were adopted without amendment. Would you care to repeat your answer on this?

Mr. MacDonald: My answer was negative. I said no, of course, because the amendments would naturally impose themselves on the Board, and the Board would have no alternative but to have regard to them and give weight to them.

Mr. Mackasey: Mr. MacDonald, it is not really a debating point, but you will agree there can be differences of opinion on the effect of this particular clause?

Mr. MacDonald: There obviously is.

Mr. Mackasey: Yes, not only between you and I, obviously, but also between you and Mr. MacDougall.

Mr. MacDonald: I do not know what Mr. MacDougall has...

Mr. Mackasey: I will help you by reading and referring to it. Mr. MacDougall is the executive officer of the Board, I understand.

Mr. MacDonald: The chief executive officer, yes.

Mr. Mackasey: And has been for a good many years?

Mr. MacDonald: No.

Mr. Mackasey: Merely since Mr. Wilson left? Would you like to turn to page 60 of that particular issue, if you have it there?

Mr. MacDonald: Yes, I have.

Mr. Mackasey: Mr. Allmand asked the following question of Mr. MacDougall. He said:

Do you think that clause 1, which adds subclauses...

Mr. MacDonald: Where are you reading from?

• 1735

Mr. Mackasey: At the bottom of the right hand column on page 60.

Mr. MacDonald: Page 60.

Mr. Mackasey: Yes. The bottom right-hand side, Mr. MacDonald. The exchange between Mr. MacDougall and Mr. Allmand reads:

Mr. Allmand: Have you read Bill No. C-186, Mr. MacDougall?

Mr. MacDougall: Yes.

Mr. Allmand: Do you think that clause 1, which adds subclauses (4a) and (4b) to Section 9 gives any more power to the

Canada Labour Relations Board or imposes any burden on them that they already do not have?

Mr. Lewis: How can Mr. MacDougall tell us that?

Mr. MacDougall: In my humble opinion the answer...

Mr. Lewis: He does not tell you how, he tells you why.

Mr. Mackasey: Mr. Chairman, I will read what Mr. MacDougall said.

Mr. MacDougall: In my humble opinion the answer is No. The Board may consider whether any bargaining unit is appropriate. It may certify an employer unit, a craft unit or any other unit. I do not see that its discretion is greatly diminished or enlarged by the addition of these subclauses. There still will have to be some set of criteria for determining bargaining units, and not simply on the wishes of employees. It must go beyond that to the welfare of the enterprise, and many of them will have gone through the the criteria earlier.

It is obvious from the evidence we had some time ago from Mr. MacDougall, whom we considered to be an authority in view of his role, that in his opinion, at least, clause 1...

An hon. Member: Clause (4a).

Mr. Mackasey: Yes. The amendments do not in any way alter the criteria or the strength of the existing criteria?

Mr. MacDonald: Actually I do not think that is so. Be that as it may, there is no reference to the criteria. The question reads: "... give any more power to the Canada Labour Relations Board or imposes any burden on them that they already do not have". I am not going to put myself in the position of interpreting Mr. MacDougall. I think this is subject to many interpretations, frankly...

Mr. Mackasey: Are you...

Mr. MacDonald: But to interpret it as being at complete variance with what I have said is not necessarily correct. I have stated repeatedly before the Committee today that in my view the introduction of the stipulated criteria which has regard to local or regional applications of an existing bargaining unit certainly does introduce new criterion; it certainly does. It should be evident from the

facts that this is not to say in the past when applications for local or regional units to be fragmented out of a national unit, came before the Board they were not given every consideration; they were. Therefore, having regard to the particular case, the Board at that point was giving consideration to the local and regional aspects. In some cases, on the basis of the facts and the evidence, the Board certified a unit out of a national unit. I think Mr. MacDougall in his evidence before you the other day gave at least two illustrations of that.

Mr. Mackasey: Where the Board could carve out a unit?

Mr. MacDonald: Yes. Therefore the Board was obviously seized with the necessity of considering local or regional applications.

Mr. Mackasey: Could I interrupt you there, Mr. MacDonald?

Mr. MacDonald: As a matter of fact, I would like to finish because it appears that I have not been too successful in what I have been trying to convey to you. This amendment would impose the burden and would make it necessary for the Board in all cases to give consideration to the local and regional aspect.

Mr. Mackasey: In your opinion?

Mr. MacDonald: I think it is more than my opinion. I do not think any other interpretation can be taken from the legislation.

Mr. Mackasey: In Mr. MacDougall's opinion...

Mr. Dodge: Why are you trying to amend it?

Mr. Mackasey: I am asking questions of Mr. MacDonald and if you want to ask me a few questions afterwards, I will answer them. In the meantime, I am asking these questions because this is the first time in weeks that I have been able to question a witness of Mr. MacDonald's experience, who might clarify for me the reasons...

Mr. Lewis: On a point of order, Mr. Chairman, it has always been understood that at these hearings all those appearing on behalf of a committee have a right to interject and to answer questions. I think Mr. Mackasey's interjection a moment ago that he is questioning Mr. MacDonald and no one else is entirely out of line with the practice we have followed.

Mr. Mackasey: The method of practice that you usually follow...

Mr. Lewis: As I understood your ruling, Mr. Chairman, every member of the delegation before us, if he wishes, has a perfect right to make any comment in the course of the evidence.

• 1740

Mr. Mackasey: Mr. Dodge did not make a comment; he asked me a question. This is the difference...

Mr. Lewis: Just a normal question.

Mr. Mackasey: Mr. Chairman, could I speak to Mr. MacDonald? I am honestly seeking information. Mr. MacDonald, you have one version, perhaps the proper one, of the effects of the amendment to section 9. Mr. MacDougall has an opposite one. But have you take into consideration the explanatory notes in the bill?

Mr. MacDonald: Yes, I have read them.

Mr. Mackasey: Therefore you disagree with the explanatory notes?

Mr. MacDonald: I would have to re-read them before I could say that.

Mr. Mackasey: Well, I will let you read it; it is very short.

Mr. MacDonald: Yes, I have re-read it now.

Mr. Mackasey: Do you agree or disagree with it? It simply says there that it is "to clarify the powers."

Mr. MacDonald: I disagree completely and I might as well say to you—I must be brutally frank at this point—

Mr. Mackasey: I wish you would be.

Mr. MacDonald: This has been introduced as a government measure and you are a minister of the Crown. I say to you as emphatically as I can that that explanatory note is completely hypocritical.

Mr. Mackasey: Well, I am not going to argue with your language, Mr. MacDonald. I did not draw up the explanatory note but I can assure you that...

Mr. MacDonald: You asked me for my views on it and I gave you my views.

Mr. Mackasey: I can assure you that the people who did are not necessarily ignorant of labour relations.

Mr. MacDonald: No; in fact that is why I say it is hypocritical. If I did not think that they knew, I would not use that strong language. What I would probably say is that they were ill-advised or misinformed. But my reply to you is based on the assumption that they did know. And, therefore, I conclude that they are hypocritical.

Mr. Mackasey: Because you do not agree with their explanation.

Mr. MacDonald: No, who could?

Mr. Mackasey: Well, now...

Mr. MacDonald: There is no necessity for clarifying.

Mr. Mackasey: We could, I think, bring many witnesses who do agree with us but that is not the point.

Mr. MacDonald: Yes, I am sure you could.

Mr. Mackasey: But that is not the point. I am just asking you if you agree with it. But you obviously do not agree. That is all I asked you.

Mr. MacDonald: That is right.

Mr. Mackasey: And you do not agree either with Mr. MacDougall's interpretation of that particular clause, as outlined on page 60.

Mr. MacDonald: I do not agree with what you apparently interpret Mr. MacDougall's interpretation to be.

Mr. Mackasey: Would you like us to read it again? It is not my interpretation; it is Mr. MacDougall's words. I would like to repeat it, Mr. Chairman. Mr. Allmand, in speaking to Mr. MacDougall, asked him if he had read the bill and he said yes; and he asked him the following questions. I am only reading it precisely as it appears.

Mr. MacDonald: And I re-read it, in reply.

Mr. Mackasey:

Do you think that clause 1, which adds subclauses (4a) and (4b) to Section 9 gives any more power to the Canada Labour Relations Board or imposes any burden on them that they already do not have?

Mr. MacDougall: In my humble opinion the answer is No.

This is not my opinion of what Mr. MacDougall said, it is what Mr. MacDougall answered:

In my humble opinion the answer is No. The Board may consider whether any bargaining unit is appropriate. It may certify an employer unit, a craft unit or any other unit. I do not see that its discretion is greatly diminished or enlarged by the addition of these subclauses. There still will have to be some set of criteria...

And I presume he means beyond the amendments to the section.

Mr. MacDonald: You see, there is the very point. You are presuming.

Mr. Mackasey: Well, let us read it without presumption.

Mr. MacDonald: You told me a few minutes ago that you are taking it literally.

Mr. Mackasey: Well, I will take it literally.

There still will have to be some set of criteria for determining bargaining units, and not simply on the wishes of employees. It must go beyond that to the welfare of the enterprise, and many of them will have gone through the criteria earlier.

This is the only point I am making. It is an honest difference of opinion between yourself and Mr. MacDougall. And I emphasize Mr. MacDougall because Mr. Lewis used him as a witness earlier. At that time you did agree with Mr. MacDougall.

Mr. MacDonald: Just one moment, so that the record will be clear. The previous thing on which I agreed with Mr. MacDougall was with reference to evidence that appeared on page 50 in relation to an altogether different question.

Mr. Mackasey: Yes, I agree.

Mr. MacDonald: I want the record clear on that so that there will not be any misunderstanding. And, much as I hate to, Mr. Chairman, I think I will have to impose on your tolerance for a minute or so again to repeat what I have repeated several times before. The question asked by Mr. Allmand was:

Do you think that clause 1, which adds subclauses (4a) and (4b) to Section 9 gives any more power to the Canada Labour

Relations Board or imposes any burden on them that they already do not have?

I have said over and over again and I am saying again: Number one, in my opinion it does not give any more power to the Board; in fact it restricts its power, its discretionary power, which is at complete variance with all other legislation of a similar nature on this continent. Number two—the second part of the question—I say that it does impose a burden. I am giving my answers, not Mr. MacDougall's or anyone else's. I am giving my answers. It does impose a burden because it makes it obligatory to have regard to local and regional applications.

Mr. Mackasey: Fine, Mr. MacDonald.

Mr. Lewis: May I ask a supplementary question? Does Mr. MacDougall take part in any of the decisions made by the Board?

Mr. MacDonald: No, Mr. MacDougall does not. He is not a member of the Board; he is an employee of the Board.

Mr. Mackasey: Have there ever been any complaints by the Board of Mr. MacDougall's integrity or judgment?

Mr. MacDonald: No, of course not. Why should there be?

Mr. Mackasey: In other words, he is quite efficient and intelligent?

Mr. MacDonald: He is an excellent person.

Mr. Mackasey: He has been with the Department of Labour a long time?

Mr. MacDonald: Sure, a long time.

Mr. Mackasey: Thank you.

Mr. MacDonald: And he has been in his present position a very short time.

Mr. Mackasey: Does this imply that he is less competent for that reason or...

Mr. MacDonald: You can infer what you want, Mr. Mackasey. I have said what I wanted to say and I am not going to say what somebody else wants me to say. Are we clear on that?

Mr. Mackasey: I am quite clear, Mr. MacDonald, on one point: that you disagree with Mr. MacDougall; this is certain.

Mr. MacDonald: If you wish to put it that way, that is your prerogative.

The Chairman: Just a moment, Mr. Mackasey. I do not want to interfere with the cross-examination but I think both your positions and interpretations of remarks are on the record, and I think that rather than trying to get in the last word...

Mr. Mackasey: I would like to get into another point and I apologize to Mr. MacDonald. Mr. Lewis mentioned, Mr. MacDonald, in his preamble to one of the questions, that the Minister of Labour on two occasions had stated that the bill was CNTU-inspired. I was at that meeting and there was some ambiguity in what the Minister said. But on page 10, which I think is the last question, to clarify Mr. Nicholson's testimony I asked the following question. I will skip Mr. Nicholson; if you have it you will see why I did. I said:

In other words, it is unfair...to jump to the conclusion that this was done simply to appease the CNTU?

Mr. Nicholson's answer was:

There is no question that it would be most unfair to draw that conclusion.

Mr. MacDonald: I must tell you, Mr. Mackasey, in all fairness, that I stayed up until 1.30 this morning to read those proceedings. I am very familiar with this.

Mr. Mackasey: Mr. MacDonald, it is Mr. Lewis who quoted it twice.

Mr. MacDonald: Yes, and I want to deal with it.

Mr. Lewis: I was very careful not to say that it was to appease the CNTU; I said it arose out of cases which involved the CNTU and I ask Mr. Mackasey that he also draw Mr. MacDonald's attention to the last paragraph on page 7, where the Minister said:

When feelings are running high when there are three votes to one in a tribunal, you can readily understand the feelings of the people on the losing end, and basically that is the nub of the point before you.

And he made it not only then but a dozen other times. I am sorry, Mr. MacDonald.

• 1750

Mr. MacDonald: Yes, but I want to make the point too, if I may, that Mr. Mackasey did a notable job of trying to retrieve the Minister's former statement, shall I put it. In any event, this has been taken out of context, so I

want to draw the attention of the Committee back to it. In order to show the exceptions, some questions were put about whether only the CNTU was seeking this, as I recall, and reference was made by the Minister to both the Canadian Union of Public Employees and the teamsters union. At the next session of the Committee the minister had to come before it and admit that he had made a mistake and that the Canadian Union of Public Employees did not support this bill.

Mr. Mackasey: Would you not agree, Mr. MacDonald, that big people are always willing to...

Mr. MacDonald: May I continue Mr. Chairman?

The Chairman: Yes. The Canadian Union of Public Employees will be with us tonight if we get through.

Mr. MacDonald: Some of these tactics were used on me this morning, Mr. Chairman, and I did not complain, but when I am trying to reply seriously to a question at least I like the courtesy of my questioner bearing with me and hearing what my answer is. I realize that it might be a bit embarrassing, but nevertheless I am prepared to embarrass...

Mr. Mackasey: Not to me; go right ahead.

Mr. MacDonald: The teamsters and the Canadian Union of Public Employees were used as two illustrations in this particular section. It is now established beyond doubt both by the position of the Canadian Union of Public Employees in its official brief to you and also by the Minister's admission at the following session of the Committee that he was ill informed.

Mr. Mackasey: Which I agree with.

Mr. MacDonald: All right. If one wants to take this as whole he has to take it as a whole, not out of context.

Now, I want to deal with the second aspect of it, about the teamsters. It is also suggested that the teamsters were seeking it. Incidentally, that meeting of the Committee was on February 1 so perhaps the Minister did not have the correspondence that I am referring to. But under date of February 2, we have been provided with a copy of a letter written by Mr. Ray Greene, the President of the Joint Council No. 91, Eastern Canadian Division of the teamsters union, addressed to the Hon. John R. Nicholson in which he advised the Minister in no uncertain terms.

Mr. Mackasey: What was the date of that letter?

Mr. MacDonald: As I pointed out before, it was February 2.

Mr. Mackasey: Did it not arise out of the Minister's testimony, however?

Mr. MacDonald: No it did not; Well, yes it did, so therefore the Minister did not have it at the time.

Mr. Mackasey: That is right.

Mr. MacDonald: I do not want to be unfair to the Minister but what I am trying to point out is that in that particular case obviously the Minister was misinformed and this Committee should know about it because I do not think it has ever been corrected.

Mr. Lewis: You did not finish the sentence, Mr. MacDonald, telling us what the letter says.

Mr. MacDonald: I will read it into the record.

The Chairman: We will want to have it tabled, I am sure. Do you want to table it then?

Mr. Lewis: Does the letter oppose Bill C-186?

Mr. MacDonald: On the contrary; it supports it. No, it opposes it and supports the opposition to it.

The Chairman: Yes. Perhaps we could have the letter tabled if you are agreeable to that, sir?

Mr. MacDonald: Certainly, Mr. Chairman.

The Chairman: It will be printed with the Proceedings.

Mr. MacDonald: I think in order that the record be complete this should be known. Therefore we arrive at the position as we have indicated before where the CNTU is the only organization that has sought this legislation.

Mr. Munro: May I ask a supplementary question here?

The Chairman: May I just make this interjection? In view of the time I feel that this area of cross-examination should be abandoned. Why the Bill came into existence is not really relevant at this point. It is here. It has to be disposed of in some way or pro-

ceeded with and I think we should get into the merits of the Bill. Mr. Munro?

Mr. Munro: Mr. MacDonald, concerning your last statement, even if this Bill were inspired or we were inspired by the CNTU, if you like, or if any other organization made representations to the government to bring in this Bill, that is not material, is it? The question before us is whether the Bill has any merit. Is that not the point?

Mr. MacDonald: Yes.

The Chairman: But the question was asked.

Mr. MacDonald: Oh, I know. I did not raise it, Mr. Munro. Your colleague Mr. Mackasey raised it.

• 1755

Mr. Munro: No, but you raised the point in answer to Mr. Lewis this morning, too, that because the CNTU had some influence on this legislation that seems to depreciate its value, and I do not see how that is material or relevant.

Mr. Lewis: You are using my name, but I do not remember asking Mr. MacDonald anything about that this morning.

Mr. Munro: All right Mr. Lewis, perhaps I should have...

Mr. MacDonald: Are you objecting to my having answered Mr. Mackasey's question in the way I saw fit?

Mr. Munro: No, but I am objecting Mr. MacDonald, to your reference, as I think you will agree, to the fact of the implication of the CNTU in this matter and so have other witnesses. All I am saying is that I do not know why you are doing it because I do not know what bearing that has on the question of whether the legislation has valid points worthy of consideration or not.

Mr. MacDonald: I certainly think one of the very relevant points is that this organization sought this legislation without regard, in our opinion, for the interests of all others concerned, and I think this is of importance. It has an impact on all of Canada, all Canadians in every province and, therefore, I think that it should be known.

I think also that some importance can be attached to the fact that one minority grouping—one minority grouping—is going to have its way, presumably, at the expense of the majority. We will fight to the death for the

rights of minorities but not at the expense of majorities nor at the expense of the national good.

Mr. Munro: I thought, Mr. MacDonald, you might take an entirely different point of view and that it would be a source of encouragement to you to see how amenable the government is to suggestions from bona fide trade unions.

Mr. MacDonald: May I say Mr. Chairman, that Mr. Munro has made a statement to me, the facetiousness of which is indicated by the tone in which he said it.

Mr. Munro: Well, no...

Mr. MacDonald: Obviously he recognizes that it is facetious and therefore he put it that way.

Mr. Munro: You do not argue that there is anything wrong with the CNTU so far as it's being a bona fide trade union is concerned, do you?

Mr. MacDonald: No. That is not in question.

The Chairman: Gentlemen, we have proceeded and, in fact, we started off on such an amicable note with congratulations to...

Mr. Mackasey: We want to end it on that note, too.

The Chairman: ...the gentlemen of the CLC for the very reasonable terms...

Mr. MacDonald: In my short career in politics that was known as building a strawman in order to knock him down.

Mr. Mackasey: Mr. Chairman, I have one or two other questions...

The Chairman: So far as being complimentary is concerned, let me assure you, Mr. MacDonald, that compliments from this Committee come very rarely. If they arrive they are not necessarily...

Mr. Mackasey: Mr. MacDonald, Mr. Lewis referred before to a statement I made in public that it was quite conceivable the decision by the Canada Labour Relations Board on certifications before it involving CUPE and NABET might take several months. I might say that one thing a new Minister learns is where to go for his advice. Sometimes he learns it the hard way. Pages 6756 and 6757 of *Hansard*, contain the following ques-

tion asked of me in the House of Commons, and it is relevant:

MR. GILLES GRÉGOIRE (LAPOINTE): Mr. Speaker, I should like to put a question to the Acting Minister of Labour. Does he intend to ask the Canada Labour Relations Board to postpone the study of certification applications which could be affected by passage of Bill No. C-186?

I answered as follows:

Mr. Speaker, the Canada Labour Relations Board, a body independent of parliament, has an obligation to carry on its function despite what legislation is contemplated in the house. I do not intend to interfere with that autonomous organization. I am sure the hon. member for Lapointe will be pleased to know that the rights of the C.N.T.U. are fully protected in view of the fact that they have been notified by the board of their opportunity and privilege to intervene in these two applications which are now before the board.

Mr. MacDonald: I am very relieved, Mr. Mackasey.

Mr. Mackasey: It is public record, Mr. MacDonald. I am sure your Congress keeps close check of what goes on in *Hansard*. Perhaps somebody was a little negligent in not bringing my answer to your attention?

When I said that it could conceivably take several months, and I admit saying that in front of the CNTU, am I right that this could have been possible if intervention had been orderly and proper and well documented and brought before the Board, which could have an effect on the speed with which you render a decision?

Mr. MacDonald: I do not know I cannot talk about a hypothetical...

Mr. Mackasey: Well, now, listen. Let us call a spade a spade. Are all your decisions rendered in 4 hours time or within 48 hours?

Mr. MacDonald: Oh, no, and neither was this one. The application in this case...

Mr. Mackasey: No, I mean from the beginning of the hearing to the end of the hearing.

• 1800

Mr. MacDonald: No. I made that abundantly clear today but this application—I am speaking from memory and subject to correction—I believe was filed in...

Mr. Mackasey: November.

Mr. MacDonald: November, yes. Therefore, there is no reason to suspect that it would be unduly delayed. It was being dealt with then at the February session of the Board.

Mr. Mackasey: In other words, you handle it as expeditiously as possible in view of the evidence in front of you. It may be that I am now being unfair to you in asking you to speak as a member of the Canada Labour Relations Board—up to now you have been speaking as head of the CLC—but is it possible that sometimes the wishes of union members are canvassed by mail?

Mr. MacDonald: Votes?

Mr. Mackasey: Yes.

Mr. MacDonald: Yes.

Mr. Mackasey: Was this suggested by any one member, or perhaps by the Chairman, in this particular CUPE case?

Mr. MacDonald: I do not know, and I doubt that I would be at liberty to divulge that if it were so. But, obviously, in the face of the public record, it was not necessary. CUPE had a 55.5 per cent majority.

Mr. Mackasey: With, I believe, over 60 per cent in Quebec?

Mr. MacDonald: Yes; 63 per cent, taking Montreal and Quebec.

Mr. Mackasey: But you are not sure whether or not any particular member suggested that a vote be taken by mail?

Mr. MacDonald: I would not be sure; and, in fact, if I were sure I very seriously doubt if I would reveal it.

Mr. Mackasey: Would it appear in the minutes?

Mr. MacDonald: No, it would not.

Mr. Mackasey: One last question, Mr. MacDonald. You made the point, and I am quite sure it has been made on many occasions, that when a person is appointed to the Board he severs his relationship with the group that sponsored him. For instance, if you are there, appointed by the CNTU, you no longer represent the CNTU; you are just a member of the Board. Am I right in this assumption?

Mr. MacDonald: Yes.

Mr. Mackasey: Then, in reality, is not the Board simply transformed into a public interest board?

Mr. MacDonald: No, I would not say so.

Mr. Mackasey: How does it differ?

Mr. MacDonald: Because it is a representative board. One cannot transform...

Mr. Mackasey: Whom do you represent?

Mr. MacDonald: The Act is very, very clear. Four members of the Board represent labour and four represent employers.

Mr. Mackasey: But you do not represent any particular union on any particular group?

Mr. MacDonald: The point I tried to make—I am not sure whether or not I made it particularly clear—is that two-thirds of the employees of Canada are unorganized; and many that are organized are whether in the CLC nor the CNTU.

Mr. Mackasey: Mr. MacDonald, I am sure someone must have questioned you on what you say on page 2 about your having prepared a paper for the Task Force. Have you any objection to our requesting the Task Force for that paper so that the Committee can be better informed?

Mr. MacDonald: They have not got it.

Mr. Mackasey: You have not yet submitted it?

Mr. MacDonald: I made that very, very clear. I said that we were in the process of preparing our representations to the Task Force. We have a date with them on the 15th.

Mr. Mackasey: Thank you very much.

The Chairman: Mr. Munro, I have you down next for questioning.

Mr. Gray: Just a moment. I said I would yield to Mr. Mackasey. I did not say that I would give up my place on the list. I used "yield" in the parliamentary sense.

The Chairman: I would like to continue and complete this and start with the other witnesses at 8.00 p.m. perhaps, Mr. Gray, if you have something to ask we could...

Mr. Lewis: How many questioners have we, Mr. Chairman?

The Chairman: Just Mr. Gray; Mr. Munro has withdrawn, so Mr. Gray is the last one.

Mr. Gray: I will take just a few minutes.

Mr. Barnett: I hope Mr. Gray will not follow the example set by Mr. Gregoire the other night.

Mr. Gray: I will not follow Mr. Gregoire's example on anything. In fact, I am actually asking to maintain my place on the list, Mr. Chairman, because of your kind remarks about the amicable note on which we started. I thought you were referring to my initial remarks, which praised, at least some aspects of the brief. Perhaps I can assist you in closing the meeting on that note by asking a few questions—with the emphasis on "few".

• 1805

I was very interested, Mr. MacDonald, in the exact words you used when you were commenting on the implications, or the effect, of such a provision, if adopted on several occasions when this type of question was posed to you. I tried to note the words. You said that you had "no alternative but to give it every possible weight", and later on you said that the Board "would have to have regard to it and give it weight". On another occasion you said that the Board "would have to have regard to regionality and give it every possible weight". In other words, Mr. MacDonald, you are saying that you would not be obliged, or bound to grant every application for regional or one-shop certification that came along. You would have to consider it very seriously, but you...

Mr. MacDonald: I think that there would be a much greater pressure to grant them, under the circumstances. As I think I previously tried to convey to the Committee, I interpret it as a directive that the Board would have to follow.

Mr. Gray: Are you saying, as a member of the Board, that adoption of this section would make you feel obliged by law to grant every application for local or regional bargaining, irrespective of the other criteria?

Mr. MacDonald: No, not necessarily; but to repeat myself again—I suppose that as time goes on there is a greater tendency to do that—as I see it, each and every application made on the basis of locality or regionality would be subject to appeal.

Mr. Gray: Would the appeal board be obliged automatically to grant every appeal from a decision by the Board against local or one-plant certification?

Mr. MacDonald: I do not yet know what the appeal board would be obliged to do. I do not think anyone knows.

Mr. Gray: Then you will not disagree with me when I express my opinion that it would not be obliged to grant such appeals and could very well sustain rulings by yourself and other members of the Board in favour of national or system-wide bargaining?

Mr. MacDonald: In the absence of the terms of reference of the appeal board I do not know how you would intelligently arrive at any such conclusion.

Mr. Gray: The opinion could be expressed either way.

Mr. MacDonald: You can form an opinion; but it is normal practice among intelligent people at least to try to base opinion on reason, logic and fact. This is completely unknown to us at the moment.

Mr. Mackasey: I hope you do not wish to infer that Mr. Gray is not intelligent.

Mr. MacDonald: Not at all; quite the contrary.

Mr. Gray: Mr. MacDonald, from your experience in dealing with the present Act you will agree that no direction is given to the present Board on the basis for its coming to its decisions and that it has built them up out of precedents created by previous cases and study of the realities of the economy and of the interest of workers, and so on. Why should not a person such as myself argue, as firmly as anyone else to the contrary, that a similar approach would be followed by an appeal board...

Mr. MacDonald: My entire position on the matter, Mr. Gray, is that the criteria by which the Board arrives at its determinations are known. You have had evidence of that before this Committee. Therefore, you can, obviously, with knowledge, establish how the Board will act in these cases. Although the government may naturally know things of which I am unaware, I do not know of anything under which the appeal division would have to act.

Mr. Lewis: Except that its jurisdiction is limited to applications coming before it under 4(a).

Mr. MacDonald: That is the only thing.

• 1810

Mr. Gray: Yes. Mr. MacDonald, when the Industrial Relations and Disputes Investigation Act was passed these criteria did not exist, at least in the sense of being expressed as decisions of the Board, because the Board came into existence with the Act. Therefore, relative to hearings under the Industrial Relations and Disputes Investigation Act twenty years ago, had you expressed one view on the approach that the new Board was going to take, and I had expressed another, surely each would have been equally valid and it could have been said that one was as likely as the other. I do not really think it is fair of you to suggest, when a further addition to the structure of the Board is proposed, that it would be impossible to argue that the same criteria which the Board has followed up to now will not be given equal consideration by the new appeal division if and when it becomes part of the Board.

Mr. MacDonald: I have no knowledge whatever of how the Appeal Board might operate. However, when the Industrial Relations and Disputes Investigation Act was enacted by Parliament, we already had precedence and jurisprudence under the Wartime Labour Relations Board that had operated on that. Therefore it was pretty evident what direction it would take. But I am suggesting to you that the comparison is not a valid one in so far as I am concerned. What the Appeal Board might or might not do is completely unknown, completely unknown, and I cannot cast myself in the role of either assuming or presuming what it might do.

Mr. Gray: What would you do if you were appointed to the Appeal Board?

Mr. MacDonald: I do not think that that is at all relevant. I do not think that that is the least bit relevant to what any individual might do.

Mr. Gray: It seems to me that you would be the type of person who should be considered by the government if Parliament adopted the appeal section.

Mr. MacDonald: May I put your mind at ease. I would not for all the gold in the world accept an appointment to that Appeal Board.

Mr. Gray: In conclusion I want to recall that you agreed with me that if subsection (4a) became the law you would not necessarily—I think those are your exact words—

grant or vote in favour of every application for regional or one-shop certification.

Mr. MacDonald: I am sorry. I must have missed something. I hate to ask you, but would you mind repeating, Mr. Gray?

Mr. Gray: I am just trying to recall to you something you were kind enough to tell me a few moments before we began discussing the Appeal Board in response to my question as to whether or not, if subsection (4a) became part of the Act adopted by Parliament, you would feel compelled or obliged, as a member of the Board, to grant every application for regional or one-shop certification every time such an application was made.

Mr. MacDonald: No. The answer is obvious because the decisions are made on the basis of all the evidence, all the facts, all the jurisprudence; therefore one could not predetermine here or could not even assess, in any worthwhile way, what the Board would do in various cases. Each one would stand on its own merits.

Mr. Gray: Yes. Even with the adoption of subsection (4a). Thank you very much.

The Chairman: Gentlemen, there are no further questions. Thank you, Mr. MacDonald, and your colleagues of the CLC. Members of the Committee, we will reconvene at 8:15 o'clock.

The meeting is adjourned.

EVENING SITTING

• 2021

The Chairman: Well, gentlemen, we have two groups of witnesses with us tonight. The first group is from the Public Service Alliance of Canada, and the two witnesses on my immediate right are Mr. Edwards, the President of the Public Service Alliance of Canada, and next to him is Mr. Wyllie, the National Vice-President. Following that presentation we will hear from the Canadian Union of Public Employees, and representing them are Mrs. Grace Hartman, National Secretary-Treasurer; Mr. Francis Eady, the Executive Assistant to the President; and Mr. Mario Hinkl, Legislative Director. I propose that we first hear the Public Service Alliance and that we cross-examine them, after which we will hear the Canadian Union of Public Employees and cross-examine them. The reason for this approach is the apparently differ-

ent emphasis in the two briefs and the witnesses prefer to proceed this way. I am sure it will meet with the approval of the Committee.

I will call upon Mr. Claude Edwards, President of the Public Service Alliance of Canada, to summarize his brief.

Mr. C. A. Edwards (President, Public Service Alliance of Canada): Mr. Chairman and Members of the Committee, I will be every brief. I know you have had a long day; that you were in session of the Committee earlier today.

Our brief has been in your hands for some time. It is not a lengthy brief in terms of the usual briefs to committees, and you might even wonder why we are appearing here at all, because our primary interest is not in the field that would be covered by this legislation but primarily in the field of legislation covered by the Public Service Staff Relations Act, which is an Act that was passed by Parliament earlier this year and examined by a Committee of the House of Commons and Senate. I notice that some of the members of this Committee were also members of the Committee that dealt with that particular legislation.

Our primary concern is the matter of precedent that may well be established if the amendments to the Industrial Relations and Disputes Investigation Act in reference to the Canada Labour Relations Board become law. We expressed similar concern in our appearances before the previous Parliamentary Committee when I referred to dealing with Bill C-170, which became the Public Service Staff Relations Act, because some consideration was given to breaking up bargaining units on the basis of representation of ethnic groups or regional representation.

Several suggested amendments were considered by that Parliamentary Committee. They were all rejected with the exception of an amendment to Section 26, which permitted the Public Service Staff Relations Board to carve out, groups of employees in a bargaining unit where it could be established they could not receive representation by the applicant for the bargaining unit. However, it was only on a very, very definite requirement under that legislation—I am sure many of you are familiar with the particular legislation in question—that the particular change in the Bill became law.

I really think our concern is that if this legislation passes, within a matter of a few months we will be subjected to possible changes in the Public Service Staff Relations Act because the way the Act reads at the present time it establishes a certification procedure for the initial certification procedure under the Act. After the initial certification period has expired, which in reference to some groups is on September 30 of this year, it would permit the Public Service Staff Relations Board to certify groups on the basis of application before the Board and what is considered an appropriate unit by the Board. We are concerned that the Public Service Staff Relations Board might possibly adopt precedents that are contained in other legislations in order to satisfy themselves on what would be an appropriate unit.

• 2025

We have approximately some 80-odd possible bargaining units in the Public Service and at the present time we are negotiating with our employer. I think the government has a tremendous task in bargaining on behalf of its 200,000 employees that may well come under the bargaining legislation and with bargaining units numbering approximately 80. If, because of the precedent that might be established by the legislation before you, these bargaining units were increased to perhaps over 100, the task that would face the federal government would be immense. The problems generated by the Treasury Board possibly finding itself bargaining with several bargaining units within one classification of employees, where it has been dealing with one classification across Canada—a national bargaining unit, if you like—could be chaotic. These conditions could come about as a result of one bargaining agent trying to outdo the efforts of another bargaining agent within the same classification of employees.

Frankly, this is our major concern about this legislation. We bargain for some members who might be covered by the Industrial Relations and Disputes Investigation Act; people employed by the National Harbours Board, whom we represent under this legislation. However, our concern is not really expressed in that regard.

I think the Parliamentary Committee at the time they considered C-170 rejected the fragmentation of bargaining units and, in our opinion, the rejection at that time was valid,

and similarly would be valid in reference to this legislation.

We have an objection to the appeal system envisaged under this legislation. Primarily we think an appeal provision can lead to further unwarranted delays and one of our basic concerns, arising from our experience in dealing with the Public Service Staff Relations Board, is that additional delays built into a system can cause confusion and a lot of difficulty as far as employees are concerned in the bargaining process.

I said that I will be brief. I think all of the points I have made are covered rather extensively in the brief before you. Although you may wonder why an organization such as ourselves that does not generally come under the terms of this legislation might be before you, I say very sincerely that it is because we are concerned that whatever you do in reference to this legislation could, if you like, rub off on the legislation which the federal Public Service has just managed to obtain after about 50 years of effort. We want to give it a good try, to have it work the way we hope it will work, and we do not want changes in one federal legislation to become the precedent for changes that may well arise in other legislation as a result of it. That is all I have to say.

The Chairman: Thank you, Mr. Edwards. I have Mr. McCleave and then Mr. Ormiston on my list. But do you have something to say first of all, Mr. Ormiston?

Mr. Ormiston: I will defer to Mr. McCleave.

The Chairman: Yes, he is first on the list, and then you are next.

Mr. McCleave: Mr. Chairman, my questions to Mr. Edwards are those I have asked other witnesses previously and which, to me at least, represent perhaps a way out of the fight that has developed before this Committee between two large labour groups.

As I understand it, Mr. Edwards, the Quebec Labour Relations Board in contested cases involving, for instance, affiliates of the Quebec Federation of Labour and the CNTU, adopts the practice that its chairman alone, let us say the person appointed to represent the public interest, makes the decision and that the representational people on the Board do not make the decision in contested cases. I see a witness shaking his head but I will be

asking that question of the other group later on. Are you familiar with the practice of the Quebec Labour Relations Board?

Mr. Edwards: No, I cannot say that I am.

Mr. McCleave: Then let me put my question this way. In contested cases do you think we should consider simply allowing the chairman, who is not in either camp, so to speak, to make that decision?

Mr. Edwards: I am giving you an opinion now when I do not know the practice you are referring to in Quebec and what would happen. However, on the basis of the question you have asked I would say no. I think if you were going to have a board you would have to give that board the authority to make decisions. I think to remove the authority to make decisions from that board and give it to a chairman at any time when you might have a difficult decision to make is not compatible with what I call good labour relations.

• 2030

Mr. McCleave: So you think the groups that appear before the Board might object to this as much as the people on the Board?

Mr. Edwards: I would think so.

Mr. McCleave: Do you know how well or how poorly this operates in Quebec.

Mr. Edwards: I cannot say that I do.

Mr. McCleave: We are told that it operates well.

Mr. Edwards: I have no knowledge.

Mr. McCleave: I see. All right.

The Chairman: Mr. Ormiston.

Mr. Ormiston: Mr. Edwards, first of all, I would like to commend you on your tolerant approach in your representations. First of all, I would like to know, basically, which aspects of the Bill you reject, which you tolerate, and which, if any, commend themselves to you and to your organization?

Mr. Edwards: That is a very fine question. We object to the fact that you would institute an appeal process in which those who would conduct it would, in effect, be nominees of the government. The reason for their appointment, or anything of that sort, is not contained in the Bill. They may be completely political appointees, or anything else. To institute an appeal process by which you take

the Board decision completely out of the hands of the Board after it has been made and superimpose someone else is to us an untenable position. This is one thing that we strongly...

Mr. Ormiston: You do not regard the appeal board...

Mr. Edwards: We strongly object to it.

Mr. Ormiston: Yes, I understand; and this is an outright rejection?

Mr. Edwards: Yes; I would reject that.

Mr. Ormiston: That is fine.

Mr. Edwards: To try to make appointments to the board on the basis that you appoint them from a particular group, and then insist that they serve on panels on which that particular group is sure of some representation, does not necessarily commend itself to me. The board has to be appointed with some assurance, or some indication, that it is going to do a job. Those selected for the board should be people who can take on the responsibilities of doing the job fairly. If it can be shown that they do not do the job fairly, or if there is continual bias, something would have to be done to overcome that, either by removal or by some other method.

I would hope that the people on the board would be there to do their jobs on the basis of the evidence put before them, without fear or favour of those they represent or of those who put them there; and I am not saying that they may not be there with the interests of people in mind.

In the decisions that Public Service Staff Relations Board has made, with which I am very conversant with in reference to because of our appearances before it, irrespective of how the members were appointed to the Board and the interests they served, whether the employer or the employee, there has certainly been an indication that they have arrived at a decision which appeared to be just and fair on the basis of the evidence that had been placed before them. I hope that any board would act in the same way under the circumstances.

• 2035

Mr. Ormiston: You give me something of rejection and something of tolerance in the same statement, Mr. Edwards.

Mr. Edwards: The only thing that I reject completely is the idea of an appeal process superimposed over...

Mr. Ormiston: All right; that is fine. Can you describe, in your own words, the tolerable portion of the Bill, as far as it appeals to you?

Mr. Edwards: No; I cannot see much...

Mr. Ormiston: There is nothing tolerable anywhere?

Mr. Edwards: No; I cannot see much wrong with the Bill as it is at the present time.

An hon. Member: Much wrong or much right?

Mr. Edwards: ...with the Act as it is at the present time.

Mr. Ormiston: I see.

Mr. Edwards: I do not see the need for the suggested amendments to it.

Mr. Ormiston: Finally, nothing in the Bill really appeals to you as being very constructive in promoting the interests of these groups who will be appealing to the Board for decision?

Mr. Edwards: No.

Mr. Ormiston: I see. Thank you.

Mr. Gray: I have one or two very brief questions. Your position at the moment, Mr. Edwards, is that with the minor exception of some employees of the National Harbours Board those you represent do not come under the Industrial Relations and Disputes Investigation Act under the separate legislation for collective bargaining in the public service which was passed by this government not too long ago?

Mr. Lewis: By this Parliament.

Mr. Gray: ...presented by this government and adopted by this Parliament. Thank you for the correction.

Mr. Lewis: Adopted by this government.

An hon. Member: Put that on the record.

Mr. Gray: We will give you a gold star for that.

You are here basically to express some concern that the pattern in Bill C-186 might be adopted in some way in your system of collective bargaining.

Mr. Edwards: That is correct.

Mr. Gray: But aside from some employees of the National Harbours Board there is no question that you are under a completely different system and that there will be no immediate or direct effect if this proposed legislation should happen to be adopted by Parliament?

Mr. Edwards: The concern here is that relative to the Public Service Staff Relations Act we are working under new legislation which only provides an initial certification period as a process under the Bill. After the initial certification period, as laid down in the Act, the Board as provided with a lot of authority to establish bargaining units, and the tendency of the Public Service Staff Relations Board is to look to other areas of jurisdiction for precedent. If precedent is established by amendments to the Industrial Relations and Disputes Investigation Act it could well be that the Public Service Staff Relations Board would look to that Act for precedent after the initial certification period was over.

Mr. Gray: I have one final question. On page 3 of your brief you have drawn our attention to clause 26 subsection (5) of the Act with respect to collective bargaining in the public service, which provides a basis, if I may put it that way, on which the Public Service Staff Relations Board can help determine bargaining units. Looking at the Industrial Relations and Disputes Investigation Act would you have any objection to a similar clause being in that Act instead of proposed clause 4(a)?

Mr. Edwards: I must say that we objected initially to any such clause in the Public Service Staff Relations Act. I think our tendency would be to object in the same way, although perhaps not to the same degree, to the legislation proposed at the present time.

Mr. Gray: So far has it led to any effect that you consider harmful to the concepts of system-wide bargaining in the public service?

Mr. Edwards: No, it has not; because the onus has been on the applicant to break out a bargaining unit under the Public Service Staff Relations Act to establish to the satisfaction of the Board that the applicant would not permit satisfactory representation of the employees included therein. The terms of this section definitely place the responsibility and the onus of proof on someone trying to break a group out of national bargaining.

Mr. Gray: Thank you very much, Mr. Edwards.

• 2040

[Translation]

Mr. Grégoire: Mr. Edwards, how many members are there in the Public Service Alliance of Canada?

[English]

Mr. Edwards: Approximately 100,000; or somewhat over 100,000—110,000, perhaps.

[Translation]

Mr. Grégoire: What are the duties or roles of the majority of these members? Do they all work for the Government of Canada?

[English]

Mr. Edwards: Yes, they work for the Government of Canada. Some work for Crown corporations and commissions, but the vast majority work for the Government of Canada and come under the jurisdiction of the Treasury Board.

[Translation]

Mr. Grégoire: Do they all work in Departments, Secretariats, etc.?

[English]

Mr. Edwards: Yes; mostly departments of government.

[Translation]

Mr. Grégoire: When you speak of the Canadian Union of Public Employees, are you still speaking of employees, of the Government of Canada?

[English]

Mr. Edwards: No. The Canadian Union of Public Employees?

[Translation]

Mr. Grégoire: I want to talk about the Canadian Union of Public Employees, of CUPE, yes.

[English]

Mr. Edwards: The Canadian Union of Public Employees does not have members in the federal Canadian service.

[Translation]

Mr. Grégoire: No employee of the Government of Canada is a member?

[English]

Mr. Edwards: They are not Government of Canada employees. I believe this is true. They are in crown corporations, perhaps.

[Translation]

Mr. Gray: Allow me to make a suggestion to Mr. Grégoire. After Mr. Edwards, Mrs. Hartman and Mr. Eady of the Canadian Union of Public Employees came here to inform us more completely about their duties. According to me, Mr. Edwards is before us mainly to represent the Public Service Alliance of Canada.

Mr. Grégoire: Mr. Chairman, I agree. I will connect my questions a little later.

Are there groups of employees, as, for example, in certain Crown Companies, whose members can belong to the Canadian Union of Public Employees and others, to the Public Service Alliance of Canada? Can this happen, at times, in some Crown Companies or...

[English]

Mr. Edwards: I am not aware of any circumstances where employees would be members of the Public Service Alliance and, in the same jurisdiction, there would be some members of the Canadian Union of Public Employees.

[Translation]

Mr. Grégoire: For examples does CUPE sometimes negotiate with the government of Canada?

[English]

Mr. Edwards: I would prefer that you ask the Canadian Union of Public Employees.

Mr. Grégoire: Why is that to a question?

The Chairman: Well, we have tried to divide it; they are separate briefs, so if you could...

Mr. Grégoire: Mr. Chairman, I would like to know if within the government service, in view of the fact that there are two organizations with almost the same name: CUPE and PSAC, there has been any fragmentation of bargaining units? If these two unions can negotiate with the government of Canada two different unions would therefore negotiate with the government of Canada? Would we then not see the fragmentation which no one will hear of? That is why my question is directed to both witnesses.

The Chairman: Does Mr. Eady want to...

Mr. F. K. Eady (Executive Assistant to the President, Canadian Union of Public Employees): I might perhaps clarify, for Mr.

Grégoire, the difference between the two unions. The French title is not a translation of the English title. The expression "fonction publique" in French does not involve the government of Canada. It simply indicates the public service, whether municipal or provincial governments or Crown Corporations, etc. The difference between the two unions is that the Alliance includes government employees, whereas we represent the employees of the provinces and the municipalities. We only deal with the federal government in Crown Corporations like the CBC, Atomic Energy of Canada, etc. As regards corporations which are completely controlled by the government, like the National Harbours Board, etc. each union has very clear lines of thought. That is why both of us are here tonight. There is no conflict between the two unions with regard to jurisdiction.

Mr. Grégoire: Are there any Crown corporations in which both CUPE and the PSAC might represent the employees? Could there be any Crown Corporations with both unions acting as bargaining agents?

Mr. Edwards: I am not aware of this, Mr. Grégoire; in fact, I might add that in situations where the government of Canada has given up part of its operation, such as in federal government hospitals, we have not held on to the jurisdiction and the right to represent employees in those hospitals.

• 2045

In fact, we have turned them over, if you like, to other organizations such as the Canadian Union of Public Employees. St. Foy Hospital outside Quebec City is a good example; we gave up the jurisdiction to represent the employees in that hospital and turned it over to the Canadian Union of Public Employees. There is no conflict between us in this area.

Mr. Lewis: As a matter of fact, Mr. Chairman, if I may say so Mr. Gregoire I think was a member of the Joint House of Commons-Senate Committee on the Public Service, or at least was present on some occasions. As the law presently exists it simply does not permit more than one bargaining agent for a group as established in one of the five categories of the Act. So at the moment, whatever may happen after the first period of certification, Mr. Edwards could not give you any such example because the Public Service

Staff Relations Board would not be able to do it.

For example, at the Queen's Printer in most cases it is not the Public Service Alliance which represents the employees but a council of printing trade unions but it would be a monopoly of representation to that council only.

[Translation]

Mr. Grégoire: Mr. Edwards, you also mentioned that in the public service there are approximately 80 bargaining units.

[English]

Mr. Edwards: There could be.

[Translation]

Mr. Grégoire: Is there any tendency, in the public service, to decrease the number of bargaining units?

[English]

Mr. Edwards: This can happen after the initial certification period but during the initial certification period bargaining units are based on occupational groups within certain occupational categories of employees.

[Translation]

Mr. Grégoire: But they are all bargaining units, as such.

[English]

Mr. Edwards: They are bargaining units, yes, but they are on the basis of occupational groups throughout the whole of the service.

[Translation]

Mr. Grégoire: If there are 80 now, do you, not think that it would complicate things if the CNTU were to become the 81st?

[English]

Mr. Edwards: The suggestion that the CNTU might become the eighty-first is quite possible under the Public Service Staff Relations Act and any time any union represents the majority of employees within an occupational group it could apply and be certified for employees in the government service.

There is no monopoly so far as the Public Service Alliance is concerned in regard to the bargaining unit. Bargaining units are based on occupational groups and any organization that is recognized as an employee organization under the Act could apply for certification and be certified if it does represent a majority of employees within that unit.

[Translation]

Mr. Grégoire: Does this job classification have to represent the majority of all employees in this category throughout Canada or can there be fragmentation by provinces at the present time?

[English]

Mr. Edwards: There may well be situations where the majority of employees in the bargaining unit resides in one particular province. You might have a bargaining unit within the National Film Board and the majority might well be in Quebec. An organization representing the employees in the National Film Board, although the majority were based in Quebec, might include within that bargaining unit people who are outside of Quebec, but it could represent them.

There are other bargaining units such as the printing trades where the majority of the unit is based right here in Ottawa, but they would include people in the same classification and trade throughout Canada.

In other words, it is based on an occupational grouping of employees and has no relation to the actual location of that occupational group.

Mr. Ormiston: Mr. Edwards, are you acquainted with the situation in the Shaughnessy Hospital in Vancouver where some of the employees that are dissatisfied with their bargaining agents are looking to other groups for certification? Have you been made aware of this situation?

• 2050

Mr. Edwards: I think this was a situation; I do not think it is the case at the present time.

Mr. Ormiston: It does not exist now?

Mr. Edwards: It does not exist now. It did prior to the Act's coming into force or about the time it came into force when they were considering representation by someone else. They approached the teamsters organization but the teamsters decided not to act for them because of a variety of reasons, but that situation does not exist now.

Mr. Ormiston: They did not want to raid the union.

Mr. Edwards: Well, that was part of it.

Mr. Ormiston: But the situation did exist, did it not?

Mr. Edwards: Yes, there was some difficulty, but you have difficulties in unions the same as in Parliament.

Mr. Ormiston: Oh, I would not say that.

An hon. Member: Oh, we have no difficulties in Parliament.

[Translation]

Mr. Grégoire: Mr. Edwards, you also represent, I believe, the Port of Montreal employees, do you not?

[English]

Mr. Edwards: No, we did represent a group of employees in the National Harbours Board at the port of Montreal but we no longer represent them. At the present time they are certified to a CNTU unit under the Industrial Relations and Disputes Investigation Act but at one stage we did represent them.

[Translation]

Mr. Grégoire: Is it only the CNTU which represents employees or workers at the Port of Montreal at the present time?

[English]

Mr. Edwards: I cannot answer that; I do not really know.

[Translation]

The Chairman: Mr. Clermont.

Mr. Clermont: Mr. Edwards, when Mr. Ormiston asked about your objections to Bill C-186, one of your first touched upon the appeal division. You mentioned that your main objection to this appeal division concerned the fact that the government would choose two of the three members. You said, if I understood you correctly, that these could be political nominations. Last week, that same remark was made. It could also happen, Mr. Edwards, that on the CLRB, which is composed of four employer representatives and four employee representatives, that a decision is made by the Chairman or Vice-Chairman who are, I believe, appointed by the government.

[English]

Mr. Edwards: I am not too sure that I understand the point of your question.

[Translation]

Mr. Clermont: Mr. Edwards, you have led us to believe, more or less directly, that these nominations could be political ones. You seem to hesitate a little, I will not use the word I am thinking of about these political nominations. Let us say "patronage", as suggested by my colleague! When a decision is reached by

the CLRB, either by the Chairman or Vice-Chairman, it is reached by people who are appointed by a government. You do not oppose such appointments?

[English]

Mr. Edwards: It is my understanding of the present method of the Board that the decision is arrived at by the Board.

Mr. Clermont: Yes, but...

Mr. Edwards: It may be handed down by the Chairman or the Vice-Chairman, but it is the decision of the Board.

[Translation]

Mr. Clermont: No. It seems that I am not asking my question correctly. I am speaking of a decision reached by the Canada Labour Relations Board, which is composed of four representatives of the employees and four representatives of the employers. Let us suppose that these eight representatives are one against the other; there would then be equality. Who will break this tie? Will it be the Chairman or the Vice-Chairman? However, they are two persons who have been nominated by the government.

[English]

Mr. Edwards: That is correct.

[Translation]

Mr. Clermont: If these persons can reach decisions objectively, then why other persons, when an appeal committee is involved, would they not be objective?

[English]

Mr. Edwards: I would be concerned that the objectivity might not be as apparent. I think the Chairman of the Board working with four members appointed in the interest of the employer and in the interest of the employee, is in a position where he deals with the discussion and deliberation with the members of the Board. The way I see the appeal provision in this legislation is that it entirely removes the eventual decision from any deliberation of the Board. If someone objects the appeal process takes over and the two commissioners, who are appointed by whatever means or for whatever reason or under whatever circumstances, have the final decision in reference to something that may have been deliberated on by the Board, and a very careful decision is then arrived at.

• 2055

[Translation]

Mr. Clermont: Yes, but, Mr. Edwards, why should we doubt the competency of these persons? Why? Is it that...

[English]

Mr. Edwards: I am not in a position to judge the competence of these people. I am just objecting to the proposed system.

[Translation]

Mr. Clermont: Mr. Chairman, I will ask one single question, because the same thing also happened last week. A statement of this nature amazed me. Again, to-night, this same statement by Mr. Edwards. In fact, it seems that they doubt the ability and honesty of persons who could be appointed by a government, by any government. The Liberal Party controls the Government, in fifteen or twenty years, another party could control it.

[English]

The Chairman: It is not in force.

Mr. McCleave: Fifteen or twenty minutes, if the voters get at them.

[Translation]

Mr. Clermont: Yes, but the Chairman of the CLRB would be a member of the Appeal Committee.

[English]

Mr. Edwards: I realize this.

[Translation]

Mr. Clermont: This person would already know about the discussion which would have taken place before the CLRB.

[English]

Mr. Edwards: I have no wish to comment on the integrity of anybody who is appointed by anyone in reference to...

[Translation]

Mr. Clermont: No, you say that you do not intend to discuss the ability and the honesty of the persons who could be appointed. For example, at the start, you did not hesitate to do so.

[English]

Mr. Edwards: I do not think I referred to the integrity of the people concerned. I do not like the system where you bring in two people. For what ever reason they are appointed, they are still appointees and they may—I do

not know—be in a position where they can do it. I do not like this. I think this is what...

[Translation]

Mr. Clermont: Mr. Edwards, this morning, Mr. MacDonald was speaking for the Canadian Labour Congress. He is at the same time a member of the CLRB. He told us that when he accepted the appointment he took an oath and that his ties with the CLC did not count any more. He also told us that he would reach his decisions in accordance with the criteria, the rules and the evidence brought before him. Why then should two persons, even if they are appointed by a government, not be able to discharge their responsibilities in the same manner?

[English]

Mr. Edwards: I would like to answer that by asking a question. If all the people appointed to the Board are appointed on the basis of their integrity and their competence, and there is full confidence in the members of the Board and the Chairman and Vice-Chairman who, as you point out, are government appointees, why then should it be necessary to have a further tribunal over and above that?

Mr. McCleave: Touché.

[Translation]

Mr. Guay: I would like to ask a supplementary question. I would like to have certain things cleared up, with your permission, Mr. Clermont. When I heard Mr. Edwards, I asked myself: "You seem to doubt the integrity of three persons. There are two persons more if we count the Chairman and two other persons more who are appointed by the government. You doubt their ability. You say that there will be labour union "patronage", or political "patronage", about these three persons." However, it does not seem to us, at present, at there is doubt about the ability or the honesty of the Chairman of the CLRB, tonight. In none of your briefs, it seems to me, do you raise a doubt about the ability of the present Chairman. The present Government or another government could make some appointments, could it not? I believe that there are enough people in the labour union movement or in the trade union movement so that we should be able to find three capable and honest persons to judge labour disputes.

[English]

Mr. Edwards: I think my previous response holds true. If a Board is appointed and there

is a degree of competence and confidence in the Board, then why is it necessary to have anything further in regard to an appeal board.

[Translation]

Mr. Grégoire: But then, why the Court of Appeal and the Supreme Court,...

[English]

Mr. Barnett: Mr. Chairman, may I ask my supplementary question now?

• 2100

The Chairman: Yes, Mr. Barnett.

Mr. Barnett: I would like to ask a supplementary question because there has been a good deal of talk about integrity and reference to questioning the integrity of appointments. I would like to ask Mr. Edwards, arising out of the fact I assume he had in mind that under the existing legislation all of the present appointments to the Board are government appointments, is what he intended to convey? When he made the remark about the appointees to the proposed Appeal Board, I would like to know whether my inference was correct that he had in mind the fact that in the existing appointments to the present Board the legislation spells out that they shall be representative of or chosen among those representing the employees and employers. In other words, these would be people with certain specific backgrounds, whereas in respect of the proposed appeal section there is no directive in the legislation at all. They could be politicians, university professors or psychiatrists; in other words, people without a specific area of competence. Is this the kind of inference...

The Chairman: Just a moment, Mr. Barnett. Those three groups are not necessarily without specific areas of competence. It may not be legal but...

Mr. Barnett: I do not want to get into an argument about the integrity of psychiatrists.

The Chairman: It was the competence I was worried about.

Mr. Edwards: I think your point is well taken.

Mr. Barnett: Was I correct in drawing that kind of inference from your remark...

Mr. Edwards: I think this is correct.

Mr. Barnett: ...rather than any question about integrity?

Mr. Edwards: It is not a case of trying to impugn the integrity of people who have not even been appointed; this is not the question. But there is certainly a lot of vagueness concerning what the appointees' areas of competence would be, what they would be doing, and so on. The point, so far as we are concerned, is that it should not be necessary.

I think probably our major point is that it is another means, if you like, or it could be a means of delaying decisions even further. I think one of the important things any board has to consider is getting on with the job of dealing with the decisions that may come before it. We do not think it is necessary to inflict another level in the process, regardless of how these people might be appointed.

The Chairman: Mr. Leboe?

Mr. Leboe: Mr. Chairman, I just came on this Committee today, but during the day I have been continually aware of a paradox in connection with the argument that has been placed in connection with the appointments to the Board and to the possibility of appointments to a review board.

There were arguments placed here today—and this is right in line with what we are talking about tonight—that certain members of the Board were from labour and certain members of the Board were from the employer side. It seems to me that the recommendations of the CLC, for instance—and you note in your brief that you endorse their brief entirely—are holy and righteous in the eyes of the people who have been giving evidence.

On the other side of the coin, there seems to be great doubt even of the integrity of those who are going to administer the Act if the Act is passed. I am not saying I am in favour of the Act; I am just putting this forth as a strange situation. To my mind, if the government were to turn down all the suggestions of employers and employees, in the union and the Canadian Manufacturers' Association or whoever they were, and say, "Well, we are going to get people from labour, and we are going to get people from the employment side; but we are not going to listen to you people at all", there would be an uproar, I am sure, on the basis of the evidence we have had here today.

It seems to me we are faced with a very strange paradox where a shadow of doubt is placed on the integrity of the government and on the integrity of certain appointees, but we have the strange case of one of the members

of the Board sitting here, leading a delegation for the CLC, and telling us this afternoon that the Board is completely without bias.

• 2105

Yet at the same time, and I know this for certain, if the recommendations from the CLC were turned down by the government there would be screaming to high heaven. Why? That is the question I would like to pose. Why are we witch hunting?

As I said, I am not prepared to say that I will vote for the legislation. For different reasons I would be very strongly inclined not to vote for the legislation. But it does seem to me we are in the position of not really being realistic in our arguments why certain things should be done.

I remember a few years ago there was a great deal of ado about a fellow in the United States called McCarthy, and out of that came the expression "McCarthyism". This was a situation where the doubts and fears of people in one way or another revolved around this individual until we got the term "McCarthyism". It sprang from what they call "witch-hunting". For my money it seems that we are, in fact, by these presentations witch-hunting to a great degree.

We are using a hypothesis to say that we are afraid something is going to happen. We fear something is going to happen long before there is any chance of anything taking place.

I could give other examples of what I mean, but it would not enhance the situation here. I have been listening this afternoon trying to get an unbiased position of the arguments that are placed, but it does seem to me that we cannot have trusted individuals implicit on one side, and no trust on the other side. Do you follow me?

Mr. Edwards: I follow you, but I do not feel I can respond, particularly. I think you have made a statement of philosophy that I do not disagree with, but I think inherent in what you have said is that all of us are concerned about change when we do not know just what this change really is going to bring, how it is going to materialize, or what the effect of the particular change is going to be.

Certainly from our point of view and dealing with this in the context of the reference I have made, our concern is not as materially a matter of this particular legislation as what

changes in this legislation can do to the legislation we have just come under.

We are now bargaining. We are now, if you like, having some difficulties with regard to the process because it is new and strange. If suddenly we are faced with the breakup of units on the basis of ethnic groups, or appeal systems superimposed on the present Board, and so on, I think we are in for extremely chaotic conditions.

Mr. Leboe: Well, of course, it is the last statement you made that would make me rather averse to supporting the legislation. But I still think we are—and this goes for other legislation as well—in the position of very rapid change these days, and it does seem to me that in advancing our position in Parliament, our rules of the House, and everything else we have to, as it were, take a few chances.

We have a government, and we have a legislative body that sits 10 months out of the year. Representations are heard in Committee from year to year; the farmers, the CLC, the Canadian Manufacturers' Association, or whomever it might be, come before the House of Commons. Where real grievance appears, it seems to me that in this type of situation the arguments that have been put forward are rather light, because they are working on something they are afraid of rather than on something they have experienced. Perhaps I am wrong, but this is the way it seems to me. That is all, Mr. Chairman.

The Chairman: Thank you, Mr. Clermont, do you want to finish?

[Translation]

Mr. Clermont: This is what I would like to say, Mr. Chairman, before you give the floor to our colleague, Mr. Leboe: The question I asked Mr. Edwards did not mention the usefulness or the uselessness of an appeal committee. I objected to...when he had raised some doubt about the ability and honesty of persons who would be appointed in the future. Thank you.

[English]

The Chairman: Mr. McKinley?

Mr. McKinley: It was mentioned this afternoon that this legislation has been proposed at the request of the CNTU to satisfy some of their desires. Do you agree with that?

Mr. Edwards: I must assume that this is the basic reason for this legislation. Changes in

legislation generally come as a result of pressures from people who are interested in effecting change. I know of no other group that is interested in effecting this change in the legislation that is proposed.

Mr. McKinley: What advantage do you see the CNTU gaining from the passage of this legislation?

Mr. Edwards: We may even have outlined the advantages in our brief. If you relate it to our legislation, for example, it might be the means of breaking up some of our existing bargaining units and carving them into sections so they could represent people on the basis of ethnic groups, or creating pockets of representation according to geographical distribution of people. I interpret this to be what they are seeking.

Mr. McKinley: That is the main basis of your opposition to this legislation, then?

• 2110

Mr. Edwards: No. I pointed out, I think, that the main basis of opposition to it is the changes that may be effected in the Public Service Staff Relations Act along similar lines, if you like. I think that this is the concern, plus the operation of an appeal division over and above the Board itself which would further delay the matter of certifications in having questions coming before the Board.

Mr. McKinley: You are speaking strictly from your own outlook on the situation then?

Mr. Edwards: I think we have to, and I think that this is our primary interest in this particular legislation.

The Chairman: That concludes the list of guests. Mr. Grégoire, have you a question?

[Translation]

Mr. Grégoire: Supposing that the CLRB, under the new bill, were to accept fragmenting the bargaining units, in a rational way, on not too wide a basis, could your association suffer any disadvantages in the sense that perhaps the CNTU might organize federal public service employees in Quebec?

[English]

Mr. Edwards: I think that this would happen.

[Translation]

Mr. Grégoire: And would you oppose this?

[English]

Mr. Edwards: We would object if this were a case of breaking up the bargaining units because I think you have problems, if you are dealing with one class of employee, of national rates of pay and national working conditions, and if you are going to have situations where two organizations are trying to act for them they are obviously going to act competitively. You are going to have whipsawing between the organizations themselves or, alternatively, if the government is powerful enough, they are going to whipsaw one union against the other by making a deal with one that would have a great deal of effect on the other. If you are going to treat government employees the same regardless of where they work, if you are going to pay them national rates of pay, if the working conditions are generally going to be the same, then certainly it is obvious to us that it should be one organization representing a particular group of employees that constitute a bargaining unit. If you fracture the bargaining unit so that you would have, if you like, two groups of employees doing essentially the same work for the same employer on the same rates of pay and the same working conditions, I think it is basically wrong to have them represented by two different bargaining agents.

[Translation]

Mr. Grégoire: Would you allow two different unions to reach some agreement at the time of negotiations, so that they could bargain jointly?

[English]

Mr. Edwards: If this is possible under the Public Service Staff Relations Act at the present time, if both of these unions fail to represent a majority of employees by themselves they could come together and act, if you like, as a council.

[Translation]

Mr. Grégoire: Supposing the CNTU represented federal public servants in Quebec and the Public Service Alliance represented federal public servants outside of Quebec, would you have any objection to their having a joint bargaining unit for negotiation?

• 2115

[English]

Mr. Edwards: We would have an objection to this because it is a very very difficult thing

to have two unions working together in tandem in circumstances such as you describe.

[Translation]

Mr. Grégoire: This means that Quebec workers are perpetually condemned to have the majority of the other provinces impose a union on them?

[English]

Mr. Edwards: I do not think that this is the case at all. I do not think it is a matter of imposing a union on them. As far as the public service is concerned, and I can only speak with authority with reference to the public service, we have not found that this is the case. Our representation of employees from the Province of Quebec is equally as high, if not higher, in terms of numbers than what it is in any other province across Canada. We have made sure that our employees in the Province of Quebec receive service in their own language, documents in their own language, are represented on boards, commissions, and on our executive, and there has been no difficulty in this area. We have tried to make sure that there has not been any difficulty. We have represented government employees as government employees regardless of their race, colour, creed, ethnic origin or background. This has been traditional with us. Now I think that you would tend to generate difficulties if they were broken out on the basis of ethnic groups. I think that what we should be trying to do is work together in unison in one group and not to try and work in separate groups.

The Chairman: Mr. Boulanger you are next.

[Translation]

Mr. Boulanger: Mr. Edwards, along the same line, there is no question of my casting any doubt on the value of your opinion on Bill C-186. However, I wonder whether you might not perhaps be able to see the other aspect of the bill, the suggestion that its object is not to divide bargaining units, but on the contrary, to give an additional guarantee to the free exercise of the right of association.

[English]

Mr. Edwards: I find it very difficult to see that aspect of the Bill.

[Translation]

Mr. Boulanger: A little while ago you said to Mr. Grégoire—and please note that I do not share his opinions because there is no ques-

tion of separatism in the labour unions nor, for that matter, on the political level...

[English]

The Chairman: Mr. Boulanger, we have three quarters of an hour and I would invite you not to...

[Translation]

Mr. Boulanger: It was claimed this afternoon that there was something fishy about this business, but the explanatory notes to bill C-186 say that:

The purpose of this amendment is to clarify the powers of the Board to determine that employees in one or more self-contained establishments or in one or more local, regional or other distinct geographical areas within Canada, constitute a unit that is appropriate for collective bargaining.

You have never attempted to find in the Bill anything but a division of the units. You do not seem to want to admit that it will add an additional guarantee to the free exercise of the right of association, and at the same time, the freedom to choose one's association or trade union. You did not seem to see the additional protection that could be introduced by amending the act without removing any existing power for the reasons I have just given. You do not see this aspect at all.

[English]

Mr. Edwards: Yes.

The Chairman: Are those all your questions?

Mr. Boulanger: Yes.

• 2120

The Chairman: Thank you very much, Mr. Edwards and Mr. Wyllie, for coming and for your patience in waiting.

Are you making a résumé, Mrs. Hartman?

Mrs. Grace Hartman (National Secretary-Treasurer, Canadian Union of Public Employees): Yes, Mr. Chairman.

The Chairman: There is only one presentation?

Mrs. Hartman: Yes.

The Chairman: Gentlemen, we now have before us the members of the Canadian Union of Public Employees, Syndicat Canadien de la Fonction Publique, and Mrs. Hartman will be the first speaker.

Mrs. Hartman: Thank you, Mr. Chairman and gentlemen. We are going to make this as brief as possible. You have heard presentations made by other sections of our organization. I will start off and then Mr. Eady, who has been working with the Bill more closely than I, will carry on. Just to give you some idea of the makeup of our organization perhaps I should say that it represents mainly government employees at the municipal level, employees of the public utilities, the crown corporations, hydro, commissions atomic energy, harbour commissions and so on. On the question of our French membership or bilingualism, at our second convention in Vancouver it was resolved that all of our correspondence, press releases, notices, and that sort of thing, would go to our locals and staff in the Province of Quebec in their language. As a matter of fact, they pretty generally go across Canada in both languages.

If you would refer to our brief on pages 4 and 5 you will see that we referred to the breaking up of national units. I am going to skim through this very quickly because you have had the brief for some time and many things of interest to us have already been discussed tonight through your questions to Mr. Edwards.

We do not think that the breaking up of the bargaining units would in any way have a beneficial effect. We think from a trade union point of view it would be very bad as far as wages, working conditions, seniority rights, et cetera, are concerned. We also feel that in the breaking up or fragmenting of the bargaining units a sort of inner union warfare would be created that would have anything but a stabilizing effect on the labour movement and, I would suggest, on the economy as a whole.

There was some discussion tonight on the composition of the Board as it presently exists, to which we would like to add a word or two. We feel if this Bill was introduced for the benefit of the CNTU—this pretty generally seems to be the reason and it has been so stated by the Minister, I believe—then the CNTU, considering their membership, appear to have been adequately represented on this Board. We feel that Section 9 of the present Act is broad enough. It gives the Labour Board the power to certify groups or break up bargaining units if they see fit, and it seems to me this is the proper way of doing it rather than having a situation which, in our

opinion, would end up generally in an appeal. I do not think the Board then would serve the purpose for which it was established. The amendment seems to take away the rights and the very aim of this Board.

• 2125

In our brief we have discussed the situation in the CBC and our relationship and position in both Quebec and the rest of the country. I will not pursue this subject because Mr. Eady will be elaborating on it. He dealt and worked very closely with our recent certification in the CBC. Again, we refer to the Appeal Division to which we object.

My presentation is rather disjointed, but I am trying to hurry so there will be time for further comments. As you know or are probably aware, at the recent hearing concerning the CBC the CNTU made representation that they should also have the right to appear. I think if they had followed the usual procedure there would have been no problem, because they had the usual two weeks in which to intervene. After waiting some ten weeks, they indicated the hearing before the Board was untimely and that we should wait for the passing of this Bill. In this particular case I do not think it was necessary for them to appear and apply at all after waiting that length of time, or to assume that this Bill would go through, which would give them an advantage.

I think Mr. Eady should carry on from here because he would particularly like to expand on the CBC situation.

The Chairman: Thank you, Mrs. Hartman. Mr. Eady.

Mr. Eady: Mr. Chairman and members of the Committee, as suggested by our Secretary Treasury, if I may I would like to make some comments on the brief and also give the CUPE'S point of view on some of the questions that have arisen during this Committee session to which I have been listening.

One question was whether we represent our members. This matter came before our convention in November of 1967, it was the subject of discussion by our executive board that met in Ottawa this week-end and you heard the extremely strong views expressed by our local in CBC Montreal, Local 660, and our Quebec council only last week.

The question about our role as a Canadian union has also been raised. The suggestion

was made that Canadian unions that are members of the Canadian Labour Congress are dominated by international unions. I think any of you who understand the role of CUPE in the Canadian Labour Congress will realize that we have our point of view and, as Mr. MacDonald indicated this afternoon, the affiliates are autonomous. With regard to the politics of our members, as at least Mr. Munro knows, there are active officials of our organization including one in his home town who represent all parties.

On the subject of bilingualism, I think it is well known by the Quebec members that there could be no one who is a stronger nationalist than our Quebec director, André Thibodeau, who was before this Committee only last week. I think I need say no more about bilingualism in our union than that we are the only union in the Canadian Labour Congress that has a Quebec director who does not even speak English, and more power to him. I think this is an indication of the way we run our union. We have a top official, whom we do not even require to be bilingual, who was appointed because he was the best man for the job and he is a French Canadian who does not speak English. He does not claim to speak English and, as a matter of fact, he told me he regrets that he cannot, but his father was such a strong nationalist he would not allow him to speak English at home.

• 2130

I think, gentlemen, the basic problem concerning this Bill and the basic reason for it is that the production employees of Radio-Canada had a lousy union representing them. They did their best to get out of this union and they made all sorts of efforts, the details of which were given to you by Mr. Pelland at a hearing last week.

Mr. Boulanger: When you use the word "lousy" in English I hope you mean what you say.

Mr. Eady: Yes, I intended the English meaning in the sense of not doing a good job for their members.

Mr. Boulanger: That is not the same translation we heard a few weeks ago.

Mr. Eady: No, no. As a matter of fact, one of the members of the Committee asked us why we did not do something about it. We did something about it, as Mr. Lewis and other members of the Committee know, and

we were put under sanctions by the Canadian Labour Congress for raiding the other unit. This is how strongly we felt about it. The point I want to make in the strongest possible terms to the members of this Committee is that Toronto objected just as strongly as Montreal did to this former union that was decertified. The objection was made by the production employees, regardless of whether they spoke English, French or Chinese. As a matter of fact, the opposition was quite widespread, and I think this is the real reason this Bill was introduced. The CNTU saw an opportunity, in the dissatisfaction with this particular bargaining agent, to get their foot inside a crown corporation.

[Translation]

We believe that with regard to the CBC, the stage-setters working in Montreal either for the English network or for the French network, do the very same work, because the orders are given in French or English to the stage-setters, script assistants and writers. There is no difference between the English network or the French network. The stage hands work in both studios, perhaps in the morning on the English network and in the afternoon on the French network. I have already mentioned that in Montreal and Toronto, their position was equal. These are the two major centres which were against IATSE.

As for Quebec, let us not forget that in the 1966 vote and in this year's certification, all the employees in the City of Québec adhered to CUPE. This is an indication of the feelings of CBC employees with regard to their labour representation. They want a Canadian union throughout the network of the CBC. Do not forget that the French network does not include just Quebec and Montreal; it also includes St. Boniface, and Moncton and Ottawa too. I would like to draw your attention to the statements made by the CLRB that the proportion of our members is greater in Quebec than on the national level. We have 63 per cent of CBC employees in Montreal and Quebec who have signed membership cards and paid their \$2 dues and supported our union against the CNTU. We won more votes, more union members than the CNTU ever did. In the first case, we had 410, the second time, 435, and now we have reached 482.

[English]

Mr. Chairman, because I think it is very important I would also like to make a remark

for the record about the attack that was made by Marcel Pépin, on the integrity of Mr. Brown, the Chairman of the Board. When you speak about international unions Marcel Pépin made this attack from Brussels, where he was attending the international of his organization and perhaps consulting with the French Christians on Quebec libre. We could have taken the same objection and said the same rude things about Chairman Brown when our appeal against the vote in Montreal in 1966 was turned down. We did not agree with the decision of the Chairman of the Board but we did not impugn his integrity. I think it is regrettable that this happened because it has been our experience with the Labour Board that sometimes we win and sometimes we lose. We think the CNTU should be prepared to do the same.

• 2135

On the question raised this afternoon by some members of the Committee about organizing the unorganized, I just want to point out for the record that our union takes its duties seriously enough to have increased its membership from 80,000 to 115,000 in four years. Our membership in Quebec has risen from 8,000 to 22,000 in that period.

The last comment I would like to make, Mr. Chairman, is on this question of the Appeal Board. I would like to point something out to Members of Parliament which I think they realize but perhaps my emphasis might be a bit different. The Chairman and members of the Labour Board are permanent members. They sit on all the cases that come before them. The system of appeals in this bill provides that the two people nominated can be different in every case. Therefore when we speak of the integrity of these people it is not in the sense that they may not be willing to judge the case, but that they do not have the same experience...

Mr. Lewis: If Mr. Eady will permit me to interrupt him, I really think we ought to discuss it on a correct basis. I think the Minister of Labour in the House, and certainly before this Committee, made it clear his intention was that the two members appointed to the Board to act on the appeal division would be permanent, even though part-time.

Mr. Eady: It does not say that in the Bill, Mr. Lewis.

Mr. Lewis: I know it does not say it in the Bill but I wanted Mr. Eady to know that it is

not the intention of the government to appoint ad hoc members for each appeal but to have permanent members.

Mr. Eady: But the most important thing, Mr. Chairmaan—and again I would hardly dare say this to Mr. Lewis, but I think it should be said for the record—is if this appeal procedure is introduced it will be the only appeal procedure on any labour board in any jurisdiction in any province of Canada, except for the right of *certiorari* when they exceed jurisdiction or the Board is *ultra vires* its powers. We have enough trouble at the present time. Do members of this Committee realize that because of the present procedures of the Board the IATSE members have been without a bargaining agent for two and a half years? Just imagine the appeal system which would be involved.

In commenting on this, Mr. McCleave, I want to tell you that we are hung up in the Superior Court involving the manual employees of the City of Quebec. Commissioner Rousy sat for the labour union and he was nominated by the CNTU and he was a personal friend of Mr. Bélanger of the rival union. He sat on our case. So, I do not think you can say that when there are rival unions in the Quebec jurisdiction the labour members or the employer members absent themselves. They are very much present. I am not saying that he influenced it but he did sit, Mr. McCleave, and he was there. We are now in the Superior Court and we have been there for two and a half years, and during that time the employees of the City of Quebec have been without representation.

Our objection to the appeals procedure is that it is absolutely unnecessary as long as the provisions of the general legal system are allowed, for instance, the right of *certiorari* if the Board exceeds its jurisdiction. This is a view which we hold very strongly.

Mr. McCleave: Mr. Eady, the point here is that I was not dealing with the appeals procedure at all and surely your remarks to me did not deal with the appeals procedure either, did they?

Mr. Eady: No, no, just the membership of the Board. It may be so in some cases, Mr. Chairman, but in the Quebec jurisdiction the impression you have gained that the Chairman sits on rival cases is not 100 per cent correct. We have appeared before the Quebec Board and sometimes the QF of L commissioners have sat, sometimes it has been the

CNTU and sometimes the employer members. They sit in panels but the makeup of the Commission changes depending on the case, not according to the union that is appearing before them.

Mr. McCleave: I only have one question, Mr. Chairman, and, if Mr. Eady is finished, perhaps I could ask it at this point. As a question of principle, should there be a dispute, could the representational people sit in? They could sit in as advisers or to use the Admiralty expression, they could be assessors who help the judge determine the case, but the Chairman would be the sole arbiter. This seems to me to be a sound principle. You do not have the representational people casting their yeas or nays, and in this way fulfil the Minister's dictum. He was very concerned that not only should the procedure be fair and that justice be done, but also that justice appear to be done. This to me seemed to be one way of doing it. In contested cases, as a question of principle, would you object to the Chairman alone making the decision?

• 2140

Mr. Eady: Not on a question of principle, no, but it has been our experience with labour boards in this and other jurisdictions that the collective wisdom, for instance, of the present nine-man Canada Labour Relations Board is just as good. If you get down to the crunch, the Chairman's vote is vital in any event, but you give full right to participation. I understand—although not in connection with this case—that over the years voting in the Canada Labour Relations Board has been cross-voting. Sometimes on certain cases employer and union members will vote on the same side and other employer members and other union members will vote on the other side, which seems to indicate that the board considers the merits of the case rather than being purely union or employer partisan.

Mr. McCleave: We have had strong evidence to that effect, but I think the bind that we are left in is that a sizeable group of people, the CNTU, have been able to make a case—and it at least sticks with certain people in their own area—that there appears to be unfairness. I do not think any case has been made out that there has been unfairness, but it is this appearance that the Minister put so much stress on and frankly, this is the thing that bothers me. I do not think the

charge has been made by the CNTU, but I think we clear up the Minister's objection by taking the vote of one person representing the public interest rather than the vote of those representational members.

Mr. Eady: If that is the case this could be done fairly easily without utilizing the whole apparatus of this Bill.

Mr. McCleave: Yes, it could. I quite agree with you on that.

Mr. Barnett: I wonder if Mr. McCleave recalls Mr. MacDonald indicating this afternoon that in certain circumstances he and other members of the Board had voluntarily withdrawn from...

Mr. McCleave: Regrettably, I was not here this afternoon; I am very sorry.

Mr. Barnett: This was discussed and Mr. MacDonald gave one or two examples of particular situations in which, for particular reasons, members of the Board felt there might be... He cited for example, the case of a directly-chartered CLC union—members will recall the parallel of the parent-child relationship—from which he had withdrawn as a nominee because of having come from the CLC; and he said that other members, under some circumstances...

Mr. Eady: Mr. Chairman, through you to Mr. Barnett, the main point is that one is asked by members of this Committee whether one agrees with this bit of the bill, or that bit of the bill, or even with another suggestion that Mr. McCleave has made. Our feeling is that the Prime Minister, in the House in answer to a question involving the CBC case, clearly said that he regarded this whole problem, including discretion of bargaining units and appeals procedure, as part of the job of the Task Force.

The Task Force has an advisory committee consisting of the labour members of the Economic Council of Canada. One of them is Marcel Pepin, who is now sitting again on the Economic Council. It is our view that the Task Force has the job of reviewing the whole Act, and that to tinker with little bits of it is undesirable; the whole thing is evenly balanced. We may disagree—we have made our representations in the past and have had meetings with the Task Force, as have other unions—but if the changes are going to be made we would prefer that they be made as part of an over-all review of labour legislation in Canada.

This has been the procedure in other jurisdictions. For example, in your province of British Columbia there is a major review—which we are going to attack—of Bill 43; there has been a major review in Ontario; and the Quebec Labour Code was a major change. These were all done as over-all packages.

• 2145

The Chairman: Mr. Munro?

Mr. Munro: Mr. Eady, I was very interested in your answers to Mr. McCleave. It is no doubt quite true that in the future, as a result of the refoot of the Task Force there will be some extensive and necessary amendments to the present Act, but we are here dealing with this particular problem now. It is the fact that not only must justice be done but appear to be done that is bothering Mr. McCleave and some of the rest of us. Where an application for certification is contested you say that as a matter of principle you would not object to the chairman alone making the decision, but it would not require the elaborate provisions of this particular Bill to accomplish that. Mr. Gray made a suggestion similar to Mr. McCleave's some days ago before this Committee.—As a suggestion, if we deleted subclause 4(a) of clause 1, and all the other clauses related thereto—which is a substantial part of this bill—and went ahead with that particular principle I take it many of your objections would be removed.

Mr. Eady: There would be less objection; but as I indicated in my earlier reply, Mr. Chairman, we still think the collective wisdom of a well appointed board produces the best result. However, your proposal would certainly be less objectionable than is the present Bill.

Mr. Munro: I have one other avenue of questioning, Mr. Chairman, and I will try to make it as brief as possible. I would like to pursue it with Mr. Eady because I did not have an opportunity of doing so with the CLC and the CUPE union has been particularly vocal on this particular aspect.

As I understand it, the CUPE union is an affiliate of the CLC. If I do not word this as you would prefer it to be worded, please say so. You have been fairly vocal, through your President, in making known to the CLC your views about what you consider to have been the influence of international unions in preventing any type of realistic rationalization and mergers taking place in the Canadian

trade union movement. You have been quite vocal in saying that the international link has been a principal obstacle to this type of merger and coalescing taking place. Is that correct?

Mr. Eady: No, not quite, Mr. Munro. Subject to correction by my officer and secretary-treasurer, our view point has been that there are too many unions in the Canadian Labour Congress. We would like to see—in fact we have suggested—10 or 12 on an industrial basis. Our President in a speech in Windsor said that if he were a member of the public service he would see no reason for joining an international union, but that if he worked for the Ford Motor Company in Windsor he might see good reason to be in the same union as the one operating in Detroit. What he could not see was any reason for 17 unions in the building trade. What has been said—and this is quite a wide misinterpretation of what Mr. Little has said—is that the fact that some of the unions in the Congress are international unions makes the problem of reducing the number of unions in Canada more complicated. We must find some means of merging Canadian districts of international unions, and the mergers have got to take place if the state is to be effective.

Mr. Munro: That is right.

Mr. Eady: Yes.

Mr. Munro: That being the case, the international link has been an obstacle to the type of merger that you think would be good for the trade union movement in Canada?

Mr. Eady: Right.

Mr. Munro: I have here an article in the *Toronto Telegram* of May 8, 1967, referring to a brief that CUPE put before the special Canadian Labour Congress commission, going into the structure of unionism in its affiliates. I quote:

But the 105,000-member union says fragmentation into many unions is a basic fault of the Canadian labour movement and some international unions limit their Canadian members' autonomy in strictly Canadian matters. "We suggest that the long-term objective of the Congress should be the creation of 10 industrial type unions on a Canadian basis."

• 2150

Mr. Eady: Relating this to the Bill, Mr. Chairman, this is precisely why we object to sub-clause 4(a). At the present time to take the CBC as an example, there is the Canadian

Union of Public Employees representing the production employees, since our certification last week; there is NABET representing the technicians' union; the Guild representing the newsmen; and ARTEC representing the white collars, the international service and the announcers. That is four. We think it should be one, of course, because of the views expressed in our brief. But if subclause 4 (a) means that the French network could break out into either four unions on the same lines, or one union; that those working in St. Johns, Newfoundland, or Cornerbrook could form a union in the independent unions that Mr. Smallwood has had in that province; and that the people from British Columbia could also, you would multiply the number of unions. Because although this bill is being called by the Minister the CNTU bill—in fact, his secretary called it that when I went into his office to get a copy of it—it is going to have the effect of causing fragmentation across the country. Anybody can carve little bits out, and it is going to result in a multiplicity of unions.

One of the things that Mr. Little, our President, regrets—and he expressed it to Mrs. Hartman today in his apology for not being here—is that he is sitting on the Economic Council, urging sensible labour-management relations, greater unity, larger units, regional bargaining, regional economic development and standardization of working conditions across the country and yet this can be done only if the employers on the one side and the unions on the other unite to make practical units. Our main objection to subclause 4(a) s—as The Railway Association of Canada's brief to this Committee points out—that in addition to the multiplicity of unions that they have in the running trades and in the nonops, it would multiply this by possibly two and make the union situation even worse.

Mr. Munro: I want to make my position quite clear that if there is one union whose position is consistent, in terms of their objections to any type of fragmentation of national bargaining unions, it is CUPE. This is evident from the submissions they have made to the CLC. But you, through your president have made the statement that international unions limit Canadian members' autonomy in strictly Canadian matters.

Mr. Eady: Not all of them.

Mr. Munro: Not all of them, but some of them. It is this aspect that is of concern.

Mr. Barnett: Mr. Chairman, on a point of order. Mr. Munro has been rather persistently pursuing this particular line of questioning in this Committee and quite frankly I fail to see what relevance it has to the Bill.

Mr. Munro: Just let me ask my question and you will see.

Mr. Barnett: If Mr. Munro and I were attending as delegates to a CLC convention, I for one would gladly discuss the pros and cons of this question with him, but I really do not see what it has to do with this bill.

The Chairman: I am very sympathetic to the point of order, I must say, because really, John, we have only 10 minutes and we have yet to hear Mr. Gray's and Mr. Grégoire's questions. I do not see the relevance myself.

Mr. Munro: Mr. Chairman, I introduced my remarks by indicating that I would like to have pursued this with the CLC, and I will get to my question in a minute.

The Chairman: Maybe you should accept Mr. Barnett's invitation to visit the next CLC conference.

Mr. Munro: Thank you very much, Mr. Chairman, but I will be very brief.

Mr. Lewis: If it is a very important matter I am sure the CLC representatives, or some of them, could be recalled.

Mr. Munro: I will not belabour the matter much further other than to say that the CLC position this afternoon—and I think you indicated you were here and heard it—was that they were very much concerned about fragmentation of national bargaining units, but they certainly have not displayed any great fancy on their part for action in terms of achieving the very goals that you want accomplished by the CLC in terms of mergers and coalescing of already too many unions within their own structure at the present time. Would you agree with that?

Mr. Eady: Not quite, Mr. Munro. I may be a little renowned as not being very popular at 100 Argyle Avenue, but as you may know that commission has not reported and its recommendations have been approved by the executive council and will be forwarded to the convention in Toronto in May. It was our union that asked for this Royal Commission, if I might call it that, within the labour movement to study exactly this problem. Of course we will have to look at the convention

in May to see what the changes will be, but it is precisely because we felt that there was a need and that, for example, IATSE did not give its Canadian members autonomy, that we got involved in this fight in the first place. We think that the way out of it is for unions like us to take the industrial action we did, and not for legislatures, with all due respect, to change the rules of the game.

Mr. Munro: Mr. Chairman, I have one last question. Would you agree—and I think you have stated before in your brief—that the CLC would be powerless to accomplish this sort of rationalization that you think is so important without the prior agreement of the international union in many cases in which their head offices are in the United States and dominated by Americans?

• 2155

Mr. Eady: Yes, except there is one aspect of it, Mr. Munro, with which I think you are familiar. It is our view that if some of the smaller unions were called together in talks, in say the food and drink industry or other industries, it would be possible to create mergers. Our criticism has been that these meetings have not been called. As you can tell by my accent I come from Britain. The present General Secretary of the TUC in the last year, according to the TUC report, called 65 meetings of unions to get the 188 unions in the British TUC down to a reasonable size and he has effected a large number of mergers by calling people together. This is what we are urging the Congress to do, because I think that, for example right here in Ottawa, there is at the Bank Note Company an international union representing eight employees in the Canadian Bank Note Company. We think that it should be possible to persuade that union to withdraw in favour of the typographical union which is another one and so on.

Mr. Munro: It would certainly be comforting if the CLC showed the same degree of concern about fragmentation in Canada caused by international unions that they are showing over this particular bill.

Mr. Eady: We are the cause of the fight.

Mr. Barnett: Mr. Chairman, these wild statements that Mr. Munro has been making before the Committee—

Mr. Munro: You may think they are wild, but I do not; otherwise I would not make them.

Mr. Barnett: If this sort of thing is going to be on the record, this Committee is going to have to debate the questions raised by Mr. Munro, because his statements are inaccurate and misleading and should not go unchallenged and, as I tried to say, are not relevant to the bill we have before us.

Mr. Lewis: Not only that, Mr. Chairman, but it seems to me the height of impropriety—I describe it that way in order to use parliamentary language—for Mr. Munro to deal with alleged policies of an organization which was before this Committee all day. If he had wanted to pose these questions to those representatives, he had every opportunity and there is no reason—

Mr. Munro: On a point of order. That is not so, Mr. Chairman.

Mr. Lewis: Just a moment, Mr. Munro. There is no reason to believe for one moment that if Mr. Munro had not withdrawn his name this Committee would not have sat even longer after 6 o'clock and heard his questions; and there is certainly no reason to assume that if this Committee had asked the Canadian Labour Congress representatives to be here this evening they would not have come. And I think it is thoroughly improper and a great deal worse than improper for Mr. Munro to throw aspersions against an organization which was here and whose representatives could have answered his completely unfounded statements.

Mr. Munro: Mr. Chairman, if I may answer that. As you know I did indicate that I would leave off my questioning this morning, although I had other matters to take up with the CLC. You took my name down for the second round of the afternoon sitting and you placed it at the end. At 6.30 I did no think it was realistic to keep that organization past 6.30 nor did I for one minute think that any of the members of the Committee would agree to it. In fact I was almost sure they would not. I also had some indication, and I think I indicated to you, that I thought some of the CLC people would be back here this evening. I would very much like to have pursued this matter with them. I do not think it was improper for me—and I think you are becoming very sensitive—to take this matter up with the CUPE union, because it is the very union that has been most vocal in making this type of representations to the CLC. I intended to pursue this line of questioning with the CUPE union irrespective of whether

or not I had the opportunity to take it up with the CLC, but I would certainly welcome the opportunity to take it up with the CLC.

Mr. Lewis: Mr. Chairman, I am not denying Mr. Munro the right to ask questions. I deny him the right to make statements about the CLC in their absence when they have already been here. And furthermore, I deny him the right to mislead members of this Committee, because anyone who knows anything about the trade union movement in Canada knows that there have been innumerable mergers with CLC support in the last number of years. A very large union in Mr. Munro's city has merged. There are at the moment negotiations between the packing-house workers and the amalgamated meat packers—

• 2200

Mr. Munro: Mr. Chairman, if I may. You indicated some agreement with—

The Chairman: This is exactly the problem we have here. We are away off the subject.

Some hon. Members: Hear, hear.

The Chairman: It is now 10 o'clock and the only possible way we can proceed tonight to wind up the questioning is with the co-operation of the Committee; and Mr. Munro, I say to you in all frankness that this line of questioning is not conducive to the type of co-operation which I need to get this meeting finished tonight. I really would appeal to you and say there is no point in pursuing it. You have made your point, Mr. Lewis and Mr. Barnett have made their points, and I say to you that if we continue we are going to be hard pressed to leave tonight.

Mr. Munro: I just want to raise this as a matter of privilege, Mr. Chairman. Apparently a great deal is being said about my taking unfair advantage of the CLC by making statements in their absence. I wish Mr. Lewis had shown the same degree of outrage when we had the QFL here talking about the CNTU in their absence and making statements which were far more excessive and inflammatory than mine.

Mr. Lewis: As a matter of fact, Mr. Chairman, on two or three occasions I drew attention to this. I do not remember if it was the QFL, but there were several unions that made attacks on the CSN and I made it my business to interrupt and to tell them that that was not the thing that ought to be done.

The Chairman: I think that is fair.

Mr. Munro: Aspersions were cast on the CNTU at all our Committee meetings and we all know it.

The Chairman: I hope we can end this. I am entirely at the disposal of the Committee but it is 10 o'clock.

Mr. Lewis: Mr. Chairman, I am just tired. We have been sitting here since 11 o'clock this morning and you have two people on your list and you might get one or two more. I am just wondering whether it is not possible for the representatives who are here tonight to be with us tomorrow afternoon. We have another session at that time with an organization. Mr. Gray will be 10 or 15 minutes. It not only depends on the questions, it also depends on the answers. Mr. Grégoire will be 10 or 15 minutes. Their questions might enthruse me to the point of wanting to ask some questions, Mr. Chairman, and then it will be 10.30 or 11 o'clock. Both for our sake and for the sake of the staff it seems to me that if these people are available tomorrow it would be much more sensible to say goodnight now and have them come back tomorrow afternoon.

The Chairman: Are you available tomorrow?

Mr. Eady: As you know, Mr. Chairman, we have been back three times and it is a little hard on our membership. You can see that we have reduced our delegation; it is now half what we intended because some of our people have already left town. If it will help the Committee, I will try and keep my answers brief.

The Chairman: Perhaps members of the Committee could try to keep their questions brief. We have had the Quebec group of CUPE here and we are really going over old territory. Frankly, I am not going to appeal to you any more about being relevant; I am going to insist on it because that is the only way we can proceed without inspiring other members of the Committee to ask further questions.

Is that all right, Mr. Lewis? It is entirely within the Committee's prerogative to stop at 10 o'clock.

Mr. Munro: Mr. Chairman, why did you get his approval?

Mr. Lewis: When Mr. Eady said that he would not like to appear tomorrow—

Mr. Munro: You cannot proceed without a chairman.

The Chairman: That is a little gratuitous.

Mr. Gray: Mr. Chairman, it may be that I could have finished my questions by now, but we will never know.

Mr. Eady: Excuse me, Mr. Chairman, I have just spoken with our Secretary-Treasurer and if you wish us to come back we are prepared to do so.

Mr. Gray: First of all, Mr. Chairman, I think there should be a word of commendation for the Canadian Union of Public Employees, both for the efforts they have made to provide proper service to their French-speaking members and to further the cause of Canadian autonomy. I am not going to pursue that any further for fear I awaken some type of dispute, which I do not intend to do. Let me proceed to the few questions I have.

• 2205

Mr. Eady, there is something which seems implicit in one or two of your comments—and I hope this will not create an interruption by Mr. Lewis—and also in comments of others who have been before us to the effect that if the proposed Clause 4(a) were passed, groups of employees in your union and other unions across the country would suddenly rush to split themselves off from your union and come to the Board to get fragmented. Frankly, if your union, for example, is doing the good job of servicing which you say you are and which I think you are, why in the world would this deleterious result immediately take place? In fact, even there were some stirrings in the underbrush, why would you not be able to convince the people through persuasion that they are better off as part of CUPE?

Mr. Eady: Mr. Chairman it is a case of good industrial relations. When we wrote this brief we were not certified so we did not have the members in the CBC which we now have. We are convinced, now that we have them, we will do a good enough job to hold them. However, if you have a clause like this in the Bill it will provide encouragement to opposition groups that are dissatisfied with this or that contract. Because you are from Windsor I believe you have seen the opposition groups of the various caucuses of the UAW raise particular hell at one time or another because they did not like the settlement that George Burt got for them. We are

saying that it is in the interest of harmonious industrial relations that the units be appropriate. We are not afraid of defending our members. We say the more splitting you have, as Mr. Edwards said earlier, then you get union competition which is not based on a reasonable economic case or a good argument in your collective bargaining demands. This was shown in the case of the Montreal transport strike, when the CNTU raided them out of the CBRT. They precipitated what turned out to be a very big strike in order to deliver the goods which they promised during their organizing campaign. This is our worry. It is not a fear; we are not afraid. We do not lose members; we win them. We think it is bad for industrial relations.

Mr. Gray: I think that is quite right, but some of your comments and some of the comments of other witnesses seem to imply that they are relying on the present legislation to keep their membership, rather than relying on proper service in the economic interests of their members.

Mr. Eady: No. I think my colleague on my right, who is our legal adviser, would agree and I believe as a lawyer you would know that if you put in a provision like clause 4(a), it is taken as an indication of the thoughts of Parliament and is a quasi-direction to the Board which administers the laws about what they should do. We think it alters the whole balance of the direction that will be given to the Canada Labour Relations Board, and adding the appeal system to it completely puts the whole thing out of kilter.

Our objections to this Bill are not only that it is a bill which is designed to solve a particular situation, namely, the CBC, but that it would have a deleterious effect on industrial relations in the federal field. It is for this reason we have objected to it and it was on this basis that we wrote our brief.

Mr. Gray: I am glad you put the word "quasi" in there. I was interested to note that both Mr. McCleave and Mr. Munro dealt with a suggestion I made to other witnesses earlier, that an alternative way of dealing with the issue underlying Bill C-186 was the method set forth in the Quebec Labour Code. Unfortunately I do not have the text of the Code here; I must have left it in my office. As I understand the provisions of the Code the translation of the French version, in cases of interunion conflicts, while the representative members of the Board listen to the evidence

and take part in the discussions leading up to the decision, the decision is that of the Chairman alone. It occurred to me that if we look at the actual system in use under the Quebec Labour Code, your objection—or perhaps just your tentative objection—about the collective wisdom of the representative members not being available would not actually apply. My understanding of the Quebec approach is that these people hear the evidence, they discuss the decision to be made and in effect act as assessors to the Chairman, who then makes the final decision. Actually the provisions of the Quebec Labour Code apply to interunion conflicts generally which is a more extensive area than the one covered by this Bill. I have some doubts, if my suggestion is accepted as a possible alternative, whether we should grant the same breadth of jurisdiction as they have in Quebec. I just draw this to your attention, Mr. Eady and Mrs. Hartman, as something which is apparently being used by your union the Quebec Federation of Labour generally and the CNTU in the Province of Quebec. Perhaps it is not being used with complete satisfaction, but it is being used in a way that appears to be working, and it is not the subject of a massive campaign for changing the legislation such as we have seen here with respect to Bill C-186.

• 2210

Mr. Eady: First of all, Mr. Gray, it was our experience with the Quebec Labour Board in the big jurisdictional dispute over Quebec Hydro which you heard about previously that all the members of the Board participated in the discussion which resulted in eventually...

Mr. Gray: That is right.

Mr. Eady: There is a very fine line between full participation during the hearing of the witnesses and the final decision.

Secondly, with all due respect to the CNTU, we think this campaign is an artificial one which is trying to represent the CNTU as the spokesman of French Canadian workers, when in our view we are just as able to represent them in the public service. The evidence is to be found in the CBC case which arose from this. We think the whole thing is a storm in a teacup. Certainly the true feelings of CBC workers in particular have been misrepresented to Members of Parliament. If there were a real criticism of the Canada Labour Relations Board we might be supporting the changes. We know while Mr. Picard absented himself from the Board that the

Board continued to certify the CNTU, which in itself is clear evidence of their lack of bias.

Mr. Gray: I certainly do not quarrel with your view that French-speaking workers can be properly represented in unions extending beyond the boundaries of the Province of Quebec. I think your union and others are living proof of this fact. I just tried to give you some further details of my understanding of the operation and I want to conclude with two points.

First, even though it is true that the representative members of the Board may have a very persuasive effect on the Chairman, I think the text of the law referring to the Quebec Labour Code is clear that the decision is that of the Chairman, although he obviously must give very great consideration to the views of the representative Board.

Second, and I hope I do not create a controversy in saying this, I think you were perhaps a bit unfair to Marcel Pepin when you referred to his visits to discuss things with the Christian workers unions in Quebec—and you made some reference to “Quebec libre”—especially since it is my understanding his union joined with the Quebec Federation of Labour to present a brief to the Quebec government which, as I understand it, took a strong federalist position. Although you may have legitimate differences of opinion with him in areas of labour-management or inter-union relations, I do not think that you advance your case in the minds of fair-minded people, who want to see justice done to all sides by attempting to weaken the CNTU case by tarring him with a separatist's brush.

That concludes my remarks.

Mr. Eady: On the second one, I have no comment, Mr. Chairman. On the first one, I think we would consider the proposal that you are making if it were submitted as part of the proposals to the task force and was part of an over-all package; but I do not think that our union, or any other, would consider it as just one amendment. It would have to be part of an over-all deal. This is where we think this bill should be in the hands of the task force and not, with all due respect, in the hands of a parliamentary committee.

The Chairman: Have you finished, Mr. Gray?

Mr. Gray: I have just one other comment.

You may be putting yourself in a position you will regret, because your words and those of others may be used to indicate that you are obliged to accept the task force report. You may want to reconsider this approach.

The Chairman: Mr. Grégoire?

[Translation]

Mr. Grégoire: You spoke many times of the vote taken in Montreal, at the CBC. At that time, the name of the CNTU did not appear on the ballots. I am speaking about the last time.

Mr. Eady: No.

Mr. Grégoire: The name of the CNTU did not appear on the ballots.

Mr. Eady: No.

Mr. Grégoire: Well then, when you say that two...

Mr. Eady: Mr. Grégoire, these were not ballots, but cards that were signed.

Mr. Grégoire: No. A vote was taken in 1966.

Mr. Eady: Yes, in 1966, a vote was taken.

Mr. Grégoire: This is the vote you mentioned in your brief? The name of the CNTU did not appear on the ballots at that time?

Mr. Eady: That is correct.

Mr. Grégoire: But in spite of that, the CNTU received 262 votes out of 632?

Mr. Eady: Yes.

Mr. Grégoire: And the Canadian Union of Public Employees received 292?

Mr. Eady: Yes.

Mr. Grégoire: If the name of the CNTU had been on the ballots, do you not think that it would then have a secured a majority?

• 2215

Mr. Eady: No, I do not think so, Mr. Grégoire. Please note that the IATSE received 72 votes. These votes were given to the CLC union. It is fair enough to add that if you have a vote between CNTU and CUPE, the people from IATSE have the second choice. This is our union, and, furthermore, do not forget that in Quebec City, 28 employees out of 28 voted for CUPE; this is to be added to the statistics included in our brief.

Mr. Grégoire: Mr. Eady, the vote in Quebec City, where the majority was 28 votes out of

28, does not impress me so much. I live in Quebec City and I know very well some of the employees who voted, and they told me:

"If the name of the CNTU had been on the ballots, we would have voted for the CNTU."

Mr. Eady: Well then, Mr. Grégoire, why did they leave the ranks of the CNTU and why did they sign cards with us, in front of witnesses?

Mr. Grégoire: In your opinion, do you not think that it is because the CLRB was refusing to the CNTU, not the right to represent them, but the right to take part in the vote?

Mr. Eady: I do not think so.

Mr. Grégoire: This is what was explained to me, Mr. Eady.

Mr. Eady: I contend that our colleagues from Montreal and Quebec City want to belong to the same unit as their French-speaking comrades from the other cities, such as Ottawa, Moncton, St. Boniface, etc. They do not want to separate themselves as the question of French Canada is not limited only to Quebec, it is also linked to the other provinces.

Mr. Grégoire: Is it possible that this is not necessarily a question of separation, but rather a question of the right of not always having a union forced on them, as the majority of employees of the English network vote otherwise?

Mr. Eady: Mr. Grégoire, if you have consulted our members in Quebec City, you know that we have granted the right of veto to Montreal, in the negotiations. Our President had promised formally, in writing, that we would grant the right of veto and that we would not sign a contract without the support of the Quebec members.

This has never been done before, except in the case of the "skilled trades U.A.W.," with Walter Reuther.

Mr. Grégoire: I know that Mr. Eady. You have given them that right. However, the principle is this—this is the same principle I mentioned a moment ago to Mr. Edwards—namely that the CLRB, refusing the certification of any unit at the level of the Quebec State, with regard to negotiations, the employees are continually forced, because they will not receive any certification from the CLRB, to simply accept, in return for promises or threats, labour unions, in accordance with the majority vote of the nine other

provinces. Do you not think that it is against this principle, that the...

Mr. Eady: The CLRB granted a certificate to the CNTU when maintenance services were involved in Montreal. And this, because this is not a national unit. In my opinion, this is perfectly normal because there are no relations with the maintenance service in Vancouver. But in our unit, if a stage-hand works in Vancouver, he does exactly the same work as in Montreal.

Mr. Grégoire: The person who works on maintenance in Montreal does also the same work as the one who works on maintenance in British Columbia?

Mr. Eady: Yes. But do not forget, Mr. Grégoire, that we are an economic organization. We deal with working conditions and not with matters of a political nature.

Mr. Grégoire: You do not worry about the employee's freedom of choice?

Mr. Eady: What? But, the same as everyone! You do not have the choice to drive your car on the wrong side of the street.

Mr. Grégoire: No, you do not have the choice of driving your car on the wrong side of the street. But you have the choice of driving the kind of car you want, do you not?

Mr. Eady: Yes.

Mr. Grégoire: That you want to buy?

Mr. Eady: But if I vote for a candidate and if 33 other persons vote and if the rest of the votes are divided between three candidates, the MP who will be elected will be the Member for my constituency.

Mr. Grégoire: Yes.

Mr. Eady: ... well then, they...

Mr. Grégoire: The CNTU received 37 per cent of the votes, Mr. Eady. I pointed out to you, a moment ago, that its name did not appear on the ballots.

Mr. Eady: No.

Mr. Grégoire: Good.

Mr. Eady: But the CNTU did everything to boycott our campaign; in spite of that, we have signed cards, with all...

Mr. Grégoire: Mr. Eady, do you not think that if it was really worthwhile to have then

one national bargaining unit, you could explain these benefits to the employees of the French network, or to those of the Quebec administrative division, in the case of the CBC, and, inevitably, they would have the good sense to understand the advantages of having a national unit.

Well then, why do you object to their having at least the opportunity of choosing?

Mr. Eady: We believe that, if it was so, there would be strikes in a sector of a Federal Government Corporation which constitutes an economic unit from one end of the country to the other.

Mr. Grégoire: But, Mr. Eady...

Mr. Eady: If this was Radio-Québec, I would not object, but when it is the CBC...

Mr. Grégoire: Mr. Eady, I will give you an example taken from my constituency: it concerns the Price paper mills.

Mr. Eady: Yes.

Mr. Grégoire: They employ approximately 1,200 members of the CNTU and 400 from the QFL, "paper makers" as they are called. If one or the other of these organizations goes on strike, the other one is forced to quit also. Why, in a case such as this, is the unit divided because of a small group of about 400 employees?

Mr. Eady: Because they work in the same plant.

• 2220

Mr. Grégoire: They work in the same plant.

Mr. Eady: But it is all the same network, and when you have a strike in the CBC, as we did in 1959, the strike in Montreal affects Toronto, St. Boniface, and the stations affiliated with the CBC.

Mr. Grégoire: It affects only the French network and not the English network.

Mr. Eady: Yes it does! Because the English projection centre in Montreal is on strike at the same time. Do not forget that English projections for the English network come from Montreal in particular.

Mr. Grégoire: But then the Toronto station can produce directly for the Toronto area, for example.

Mr. Eady: Not the news.

[English]

Mr. Lewis: If Mr. Grégoire will permit a supplementary question, are you suggesting by your answers, Mr. Eady, that this law applies only to the province of Quebec and is limited to that?

[Translation]

Mr. Eady: On the contrary, Mr. Lewis.

[English]

This is exactly what we are worried about; that this encourages not just one particular form of separation but many. It could cause a breakdown of sensible, economic bargaining units. This is our objection.

It just happens that the Bill was introduced to solve the problem of the CNTU. That, however, it does not mean that it would not cause separation in other areas. I cite Newfoundland as the best example I can think of; and perhaps British Columbia, Mr. Barnett.

Mr. Barnett: You made that point this afternoon.

[Translation]

Mr. Grégoire: Mr. Eady, supposing that the CNTU won the majority and was entitled to take part in the vote, would you have any objections if the employees of the French network of the CBC, in one union, and the employees of the English network of the CBC, in another, came to an agreement to negotiate jointly?

Mr. Eady: Yes, I was familiar with the CSL in Brussels, and I had firsthand experience with the French labour movement, which was divided on this question in the Renault plant. There are four unions and the weakness of the French labour movement is a very poor example and this complete division is very bad for the workers. I am opposed to these cartels because we have seen, through the decision made by Hydro-Quebec, that it is impossible to work under these conditions. And even the CNTU agrees with us that it has to be either us or the CNTU.

Mr. Grégoire: Mr. Eady, you have just confirmed my argument. The French labour movement is not divided along trade lines, or at least that is only secondary, it is divided particularly along lines of policy and political parties. One labour group supports the Communist party, other unions support—

Mr. Eady: SFO.

Mr. Grégoire: SFO supports the socialist party, the socialist parties. The unions are divided along the lines of political parties. In Quebec the CLC, the Canadian Labour Congress, is also in the process of doing exactly the same thing as the French parties. It is supporting a political party. And if a group in the province of Quebec says, 'Fine, support it, but, as for us, we want to choose our own union.' Is it not partly because people in Quebec do not want to follow certain political tendencies imposed in other provinces that we have this conflict today?

Mr. Eady: No, sir, because in our union the members of each local are entirely free to participate in politics or not.

Mr. Grégoire: Obviously they are free because they do not even vote for the NDP, which proves it. But the general orders are there.

[English]

Mr. Lewis: May I ask a supplementary question, Mr. Chairman? The questions being put are over-hypothetical.

Mr. Grégoire asked you, Mr. Eady, had the CSN had been on the ballot and the majority had voted for it would you see any objection to having one unit for the French network and another for the English network. My question is: Was that, in fact, the application of the CNTU? Did it ask for a bargaining unit for the French network, or did it ask for a bargaining unit of all the production employees in Montreal, whether they served the French or the English network?

• 2225

Mr. Eady: As a matter of fact, Mr. Lewis, through you, Mr. Chairman, they started out by applying for the French network, and then they amended it. They took the Quebec division, which is Quebec and Montreal. This included one or two people in the international service and some on the English network, but excluded, for example, those in French network in Ottawa. It was a higgledy-piggledy application, which the CBC themselves has said had no relation to their management structure—which was another reason. It is not purely a question of English and French network; it is the whole integral operation of a Crown corporation on the federal level.

Mr. Lewis: What I am interested in establishing, in view of the question asked, is that as I read the final application of the CNTU it

was not limited to the French network. It took in all production employees, those working for the French network, the English network—some of them work for both networks at the same time—and the people in the international service.

Mr. Eady: That is right.

Mr. Barnett: The bell is ringing. Perhaps, Mr. Chairman, you could release us—

The Chairman: I will allow one question.

Mr. Grégoire: I will be two minutes; that is all.

[Translation]

The application of the CNTU—to correct Mr. Lewis' statement—involved the entire administrative division in Quebec.

Mr. Eady: Yes.

Mr. Grégoire: Good, it was not a mixture as was implied, but an administrative division with its own management, its own administration.

Mr. Lewis: Perhaps because it was not limited to employees of the French network.

Mr. Grégoire: It was limited to the administrative division of the CBC in Quebec.

Mr. Lewis: The English network as well as the French.

Mr. Grégoire: You were speaking a moment ago—and I want to finish with this—of your trip to Belgium or France. I ask you again: if one union represents the administrative division in Quebec and another union represents the rest of the employees of the CBC, would you have any objection to their negotiating together?

Mr. Eady: Yes.

Mr. Grégoire: So, when you give Quebec a veto, does that not boil down to the same thing? Is the situation not the same, in fact, as if it involved two different unions at the time of negotiations?

Mr. Eady: No, because we have given the same veto to Toronto. The problem with IATSE is that it does not only assume the viewpoints of the two major centres of production. It plays the small centres off against the larger ones, not the Quebecers against the English or things like that. And as far as we are concerned, the question of the power of veto is the question of the large centres of production, which have their own special problems. And we do not feel that this is a question of Quebec against Ontario, but a question of problems entirely involving economics and unions.

• 2225

Mr. Grégoire: So you agree that Montreal had special problems and you gave them the right to veto. If they have special problems, were they not entitled to have their own union then?

Mr. Eady: We found that the problems of the script assistants in Montreal were the same as the problems of the script assistants in Toronto, and this is why we wanted them to have the same bargaining unit; they have the same problems, the same wages, the same jobs and so they want the same union.

[English]

The Chairman: Thank you very much, Mrs. Hartman and gentlemen. The Committee is now adjourned until 3.30 tomorrow.

APPENDIX "X"

Submission by the Canadian Labour Congress to the Standing Committee on Labour and Employment of the House of Commons re Bill C-186, An Act to Amend the Industrial Relations and Disputes Investigation Act.

Mr. Chairman and Members of the Committee:

1. The Canadian Labour Congress appears before you today as the major trade union centre in Canada representing some 1,500,000 organized wage and salary-earners from coast to coast. It is representative of most of the trade unions whose operations may be affected by the enactment of Bill C-186. We are concerned about this legislation not only because it touches on the interests of such of our affiliations as come within the purview of the Industrial Relations and Disputes Investigation Act but because we consider the major features of the Bill to be intrinsically objectionable.

2. It would be well at the outset to point out that the Industrial Relations and Disputes Investigation Act took effect in 1948 and has remained unaltered since then. We consider this to be a significant fact since the criticisms which have been made of it and the Canada Labour Relations Board under it are of relatively recent date. They coincide in fact with the efforts of the Confederation of National Trade Unions to entrench itself in industries where it had previously not been active. As we propose to show below, the CNTU is seeking to obtain through lobbying what it could not succeed in achieving otherwise. It is for this reason among others that we consider Bill C-186 to be almost entirely partisan in its nature.

3. We do not wish to leave with you the impression that the Industrial Relations and Disputes Investigation Act in its present form is a flawless piece of labour relations legislation. This is not so. While the Act has on the whole operated reasonably well, it has demonstrated deficiencies as the result of the experience of the past 20 years. We would be prepared in appropriate circumstances to indicate just what these deficiencies are. In our discussions with the Task Force on Indus-

trial Relations, we have been able to discuss in what way this legislation could be improved and we presume that in due course the Task Force will make recommendations in this respect. But we have been inhibited from making recommendations to the government ourselves precisely because the Task Force was in operation. It was interesting to note, moreover, that the Prime Minister himself gave the existence of the Task Force as the reason for not considering amendments to the Act prior to the report of that body. We refer you to an answer given by the Prime Minister on January 25, 1967 in reply to a question by Mr. Maurice Allard, (Hansard, pp, 12235-6):

4.

[Translation]

Mr. Maurice Allard (Sherbrooke): Mr. Speaker, I should like to put a question to the Prime Minister.

Since the Canada Labour Relations Board has just refused to recognize normal bargaining units, with regard to the request made by the Angus factory workers, would the government finally agree to amend the federal Industrial Relations and Disputes Investigation Act, so as to allow such normal bargaining units?

[English]

Right Hon. L. B. Pearson (Prime Minister): Mr. Speaker, an inquiry by experts is being undertaken at the present time into the field of labour legislation. Until they make their report to the government it would be premature to say what or might not be done in this field.

5. In view of this reply, it is difficult to understand the justification for the introduction of Bill C-186 at this time. So far as we are aware, the Task Force on Industrial Relations is still engaged in its investigations and is not likely to make a report before the end of this year. It has not been suggested by any of the proponents of the Bill that industrial relations in the federal domain are in such a state of crisis or emergency that the Bill must be pushed through ahead of any report by the Task Force. We are of the opinion that the

only reason the Bill is being proceeded with at this time is to appease the CNTU and those who support it.

6. It may be well to outline at this point some of the circumstances which appear to have led to the introduction of Bill C-186. As we have indicated above, the Industrial Relations and Disputes Investigation Act was introduced in 1948. The Canada Labour Relations Board was established at that time and has carried out the functions assigned to it. From 1948 until 1956, the structure of the Board was such that the employee members were nominees of the Trades and Labor Congress of Canada, the Canadian Congress of Labour, the Confederation of National Trade Unions (previously known as the Canadian and Catholic Confederation of Labour) and the various railway trade unions representing the running trades. Subsequent to 1956, following the merger of the Trades and Labor Congress of Canada and the Canadian Congress of Labour to form the Canadian Labour Congress, the Board consisted of two nominees of the Canadian Labour Congress, one of the Confederation of National Trade Unions and one of the running trades. It is noteworthy that this allocation was unchallenged for most of the history of the Canada Labour Relations Board and that the determinations made by the Board as to appropriate bargaining units were similarly unchallenged as to their fairness.

7. It was only after its unsuccessful efforts to obtain certification for groups of workers in the CBC and the CPR that the CNTU began its campaign for a change in the legislation and in the structure of the Board. Having failed in its organizational efforts, the CNTU then found it politic to impugn the integrity of the Canada Labour Relations Board and to seek legislative amendments which would serve its purpose.

8. What the CNTU has been seeking, and what Bill C-186 is likely to provide, is the opportunity to separate local or regional groups of employees from an already certified bargaining unit which represents employees on a national scale or to create such localized units in the first place. More precisely, the CNTU has sought to become certified for groups of employees within the CBC and the CPR. In both instances this would have meant certification of local units where the employer operates on a national scale and

where the Canada Labour Relations Board had hitherto considered that a national bargaining unit was the appropriate one for purposes of certification and collective bargaining.

9. In certifying national bargaining units on the railways and in the CBC, the Board has interpreted the Act on the basis of a rationale which is a matter of public knowledge and which we document below. But there have been occasions, as the evidence below indicates, when the Board has certified local units as being appropriate for national employers and here, too, the Board has given its reasons. Yet the CNTU has rejected Board decisions where others have accepted them. In so doing, it has engaged in political lobbying, it has cast aspersions on the integrity of the employee members of the Canada Labour Relations Board (other than its own nominee), and it has made divisive appeals on the basis of language and culture. This is well brought out in the addendum which the CNTU attached to its annual memorandum presented to the Cabinet in Ottawa on January 16, 1966. The following are extracts from that memorandum (we are prepared to table it in its entirety if this Committee so wishes):

10.

"13. Examination of the composition of the Board which heard the petition will make it clear why this group of employees was denied its right of association. Three labour representatives out of four represent a rival trade union organization, the CLC. From the outset there was serious injustice for the petitioning union and its members.

"14. Examination of the transcript of the inquiry prompt us to question the objectivity of the hearings.

"15. The Industrial Relations and Disputes Investigation Act does not lay down set rules to define and describe the negotiation unit competent to bargain. This is up to the Board. Hence, when the composition of the Board was such as mentioned above, there is little chance of an organization like the CNTU in an inter-union conflict, particularly in a case where one or several CLC unions feel themselves threatened with loss of members. The CLRB decision, if it were to be maintained, would mean that workers are forced by law to join a union against their will...

"16.... The composition of the Board and the decision handed down make us skeptical about the chances of getting justice.

"21. The members of SGCT (CNTU) maintain that it is impossible to exercise their right of association with employees who are geographically distant, who have different problems, and whom they do not have occasion to know, and whom furthermore they do not understand because of the language barrier.

"22. It is inadmissible that the employees of the French network should be subjected, in their right of association, to the will of employees of the English network. The latter live hundreds of miles away, do not perform similar work, do not have the same language or culture, yet are deciding how the French group should use its right of association.

"25. It is beyond the imagination that an employee should exercise his right of association only on the express condition that another employee living in Toronto or Vancouver be in agreement. How can a person associate with another he does not know and who cannot have the same aspirations, among others, in the cultural sector?...

"27. The petition by the SGCT (CNTU) to represent employees of the French network is in accordance with the political structure and the ethnic makeup of the country."

11. We believe that these paragraphs speak for themselves. But the statements made are open to challenge and require an answer. An answer was given in the submission which was made by the Canadian Labour Congress to a Committee of Members of the Cabinet, dated June 15, 1966. (We are prepared to table the submission before your Committee if it so wishes.) The Submission first quoted paragraphs 21, 22, 25 and 27 from the CNTU addendum and then said as follows:

12.

"It may be seen from the foregoing that the CNTU relies very heavily (although not exclusively) on the issues of language and culture. As to the fact that the employees in the same bargaining unit may be separated by hundreds of miles, we dismiss this argument out of hand. The facts of geography in Canada have not prevented the effective exist-

ence of national bargaining units as is clearly evident in railway and air transport. The concern about language and culture is much more serious and deserves more careful examination.

"What the CNTU is suggesting is that a distinction in language or culture is so important that it should produce a cleavage among workers who otherwise share the same occupations, work in the same industry and are citizens of the same country. We question both the logic and the desirability of such a development. For a century and more the wage-earners in this country have formed trade unions which cut across every distinction of national origin, mother tongue, creed or any other such distinctive characteristic. The effective survival of these unions in the face of frequent employer opposition and hostility elsewhere is evidence of the fact that what trade union members had in common—their common interest as wage-earners—surmounted those differences which existed otherwise. It is therefore illogical to argue that simply because a group of workers happen to share a given language and a given culture, this is a good enough reason for them to be segregated from other workers doing the same kind of work for the same kind of employer in the same kind of industry. It is to us quite significant that the CNTU itself only a few years ago found it necessary to eliminate from its own structure what was essentially a segregative distinction. We refer to the removal of the term 'catholic' from the name of its various affiliates and its own change of name from the previous 'Canadian and Catholic Confederation of Labour'. It is difficult for us to understand why, if the CNTU moved from a confessional to a secular type of union, it should now seek to move once again into another form of exclusiveness.

"In view of the reference by the CNTU to language and culture, we are bound to raise questions which we think are of some importance to you and must be given consideration by the Canada Labour Relations Board in examining future applications by the CNTU. Is the CNTU in effect undertaking to organize only those workers who speak French and who share the French culture in Canada

to the exclusion of those who do not? Will other workers in Quebec be placed in other bargaining units merely because they do not speak French or share in the French culture? Are bargaining units in Quebec henceforth to be along lines of language and culture rather than as determined under existing jurisprudence under the Industrial Relations and Disputes Investigation Act?

"At the present time for all practical purposes the issue is confined to the Province of Quebec. But there are many workers in New Brunswick, Ontario and elsewhere who also share the French language as their mother tongue and the French culture as their national heritage. Are we to anticipate the extension of regional certifications into those areas in a way which will result in separate certificates for French groups of workers? Would workers in St. Boniface who speak French be separated from their fellow-workers in Winnipeg who speak English, even if they work for the same employer?

"These questions are not mere rhetoric. They represent very real problems which would flow from concurrence in the views advocated by the CNTU. We doubt that the CNTU itself has realized the full significance of its proposals. On the contrary, we are inclined to believe that its views reflect an anxiety for an immediate organizational gain without regard to the long-term consequences either to itself, to organized labour in general, or to the workers of Canada."

13. Our submission referred also to paragraphs 13, 14, 15 and 16 of the Addendum and made the following statements:

"The Canada Labour Relations Board has been in existence since 1948. Its present composition dates back to 1956 when the Canadian Labour Congress came into being. Its decisions as to certifications and otherwise are a matter of public record since they are published in the *Labour Gazette* and are otherwise made available directly to the trade unions which make application or intervene as the case may be. In view of the seriousness of the allegations, we think it is only reasonable to ask the CNTU to supply

evidence that the three non-CNTU members of the Board are so lacking in honesty of purpose that they cannot be relied upon to make a fair and impartial decision. We believe we have a right to ask for this since the good name of the Canadian Labour Congress is involved. The statements made in the addendum and quoted above might more easily be pardoned if they had been made in the heat of a mass meeting or included in a leaflet distributed at the plant gate by an unsupervised union organizer. But the addendum fits into neither category. It is, we are bound to believe, a statement which was carefully drafted and even more carefully reviewed since it was intended for submission to the federal Cabinet. It would be inconceivable to us that the very intelligent and capable leaders of the CNTU would allow such a statement to be written and submitted without having reviewed it in the first place. In any event, they must accept responsibility for it. We submit that it is a matter of simple justice therefore for these same leaders to substantiate their accusations or to withdraw them and clear the names of those whose reputations have been impugned.

"In conclusion, we wish to say that the very fact that we have been brought here today and placed in the position of having to make these representations is to us great cause for concern. We see as the paramount issue not the continued existence of the Canadian Labour Congress, whether in Quebec or elsewhere. We are confident about our prospects of survival. Nor are we afraid that the good name of our representatives on the Canada Labour Relations Board is damaged beyond repair. What fills us with apprehension is the thought that this very meeting is an indication that the government is willing to contemplate the destruction of a process of certification of bargaining units which has stood the test of time and is prepared also to consider the disintegration of national collective bargaining systems into regional, and what is even worse, bargaining units whose point of identification is not the common economic interest of wage-earners, but of language and culture. We have tried to outline the possible consequences of such a develop-

ment. We think they are sufficiently serious for you to refrain from taking any actions which would disturb the administration of the Industrial Relations and Disputes Investigation Act as it pertains to the certification of bargaining agents."

14. In purely factual terms there is ample evidence that the CNTU has little cause for claiming that it is "skeptical about the chances of getting justice". The record shows that the CNTU has been eminently successful in being certified not only when it was the sole applicant but even in situations where it was being opposed by an affiliate of the Canadian Labour Congress. A review of certification decisions by the Board in the years 1966 and 1967 taken from the *Labour Gazette* produces the following:

15. During the two years under review the Canada Labour Relations Board considered 33 applications in which the CNTU was involved. The CNTU appeared either as an applicant or as an intervener. In nine of these cases, national bargaining units were a matter of issue.

16. Of the 33 cases, 29 were applications for certification. The Board granted 18 and rejected eight; three were withdrawn by the CNTU. With regard to the nine cases involving national bargaining units, the CNTU was an applicant in seven. It succeeded in none but in three of the seven it withdrew its applications, so that it was rejected in four cases. It was an intervener in two others.

17. Between November, 1966 and July, 1967, the CNTU nominee was absent from Board proceedings. During that period the Board heard 11 applications for certification by the CNTU. These resulted in six certifications, three rejections and two withdrawals.

18. The CNTU was faced with interventions in 25 out of the 29 applications it made in the two-year period. In 15 of the 25 cases, the CNTU was certified; it lost seven; it withdrew in three. In 14 of the interventions, a Congress affiliate was involved. Of these, the CNTU was successful in seven cases. It failed in those seven cases where national units were involved.

19. Judging from the foregoing, it would appear that the members of the Canada La-

bour Relations Board acted with integrity. Quite evidently they have found for the CNTU where the evidence required that they should. The occasions when they have not done so, and we refer here to those which set in motion the events leading to Bill C-186, were decisions of the Board which reflected long-standing jurisprudence.

20. We have found it necessary to engage in this lengthy preliminary statement since we thought it was important that you should have some background as to why Bill C-186 came to be introduced. It would have been a serious deficiency, in our opinion, for you to have considered the Bill as standing by itself without reference to the circumstances which gave it birth. We propose now to examine the Bill itself, to analyse what we consider to be its weaknesses and to outline to you what we consider to be its implications.

21. Bill C-186 consists of five proposed amendments to the Industrial Relations and Disputes Investigation Act. While they vary in their degree of seriousness, we propose to deal with them in the order in which they appear in the Bill simply from the point of view of convenience.

22. Section 1 of the Bill proposes an amendment to Section 9 of the Act whereby sub-section (4) would be followed by two new sub-sections (4a) and (4b). We consider the addition of the two new sub-sections, in addition to the inclusion of a new section 61A, to be the most significant aspects of the Bill.

23. Section 9 as a whole deals with certification and the functions of the Board in that respect. Sub-section (1) requires the Board to determine "whether the unit in respect of which the application is made is appropriate for collective bargaining". This phrase is at the heart of the powers which are vested in the Board. This is true not only of the Canada Labour Relations Board but the Boards in all other jurisdictions as well. This has been well brought out in his study of "Collective Bargaining Law in Canada" by Professor A. W. R. Carrothers (Butterworths, Toronto, 1965):

24. "The Labour Relations Boards are given extensive discretionary powers to give effect to the statutory scheme of collective bargaining. In nearly every

instance direction is given to the exercise of such power. The outstanding exception is the power to determine the unit of employees for which the union is to be recognized as exclusive bargaining agent. As a consequence this jurisdiction of the Board is the least violable by judicial review, for the determination is based on a conclusion of evaluative fact, and the standards of appropriateness defy definition; the unit can extend from a minimum of two employees—indeed, it is possible for a unit, once determined, to persist in the absence of any employees—to the limits of the geographical jurisdiction of the Board...

"Boards have been reluctant to commit themselves to positive standards. As has been indicated from time to time, the unit need not be the most appropriate. Indeed it might even in a sense be inappropriate. But so long as it has some element of appropriateness the determination of the Board meets the requirement of the statute. Some clues may be obtained from Board practices. But the following statement of the Canada Labour Relations Board typifies the approach to the question of developing any kind of 'jurisprudence' on the point:

"The Board does not consider it either feasible or advisable to attempt to formulate rigid rules for application in determining an appropriate bargaining unit. The established practices in the industry, local conditions and considerations, and special circumstances relating to the manner in which the work is organized and carried on in the employer's establishment are all factors which may enter into the conclusion..."

25. The reference from the Board decision immediately above is to the case known as Carwil Transport Limited (52 CLLC 16,617), in which the Teamsters union sought a local unit in an inter-provincial company. The Board, in rejecting the application, relied on two previous decisions handed down by the Wartime Labour Relations Board, one involving the CBC and another Western Canadian Greyhound Lines Limited. It may be instructive to your Committee to read what the WLRB said and why the CLRB has considered these cases to have established precedents:

26.

"(CBC CASE)"

"In the case of the Canadian Broadcasting Corporation and IBEW, DLS 7-617, the Wartime Labour Relations Board held a unit comprised of radio broadcast technicians employed at the Toronto office of the Corporation to be inappropriate, as these employees comprised only a small proportion of the employees in the same classifications employed at 17 offices of the Corporation throughout Canada. The Board in giving its reasons for this decision said:

"The Canadian Broadcasting Corporation is engaged in the business of communications, and its radio broadcast technicians work together on the same broadcast, although their duties are performed at points which are hundreds of miles apart."

"(APPLICATION OF GREYHOUND LINES CASE)"

"In the case of Western Canadian Greyhound Lines Limited and Western Canadian Greyhound Employees' Union DLS 7-563, the same Board, in considering an application for certification in respect of a unit of employees consisting of motor coach operators at Winnipeg, Regina, Saskatoon and Calgary, said in its written judgment:

"The employer contends that the proposed bargaining unit is not appropriate since it includes employees in each classification stationed at only 4 of its several centres of operation. The Board agrees with the employer's contention in this respect. To appoint bargaining representatives at 4 operating centres out of 16, and to make no provision for the same classification of employees at 12 intervening places would permit the employees at the intervening points to elect or appoint bargaining representatives who would be entitled to negotiate for separate collective agreements, and this could easily lead to much confusion and dissatisfaction."

27. In rejecting the Teamsters' application, the Board also made the point that a certification must have the result that "collective bar-

gaining could be carried on in an orderly and practical manner..."

28. Labour Relations Boards were given broad powers for determining appropriateness in the case of a bargaining unit. We consider that Parliament and the various Legislatures were wise in doing so since to have done otherwise would be to restrict the Boards and to reduce the degree of discretion and flexibility without which it would be difficult for such Boards to function.

29. The addition of the proposed sub-sections (4a) and (4b) in Section 9 must inevitably place a restraint on the Canada Labour Relations Board in its determination of appropriateness. Sub-section (4a) in particular must have that effect. The Board would be bound to read Section 9(1) in conjunction with (4a). It would be impelled to give consideration to the appropriateness of units which were of a local or regional nature, especially since the Board would be aware of the fact that the Act had been amended specifically to draw its attention to what might be done under sub-section (4a). It may be argued that the sub-section is permissive and not mandatory. But to argue this is to argue (as indeed your Committee may agree) that sub-section (4a) is not necessary; that the Board has the power to do this already and has in fact done so from time to time. We agree that the Board does possess this power already and that sub-section (4a) should not be in the Act. Our position is that its inclusion in the Act is not merely to tell the Board what it already knows but is in effect a directive to the Board to pay particular attention to applications for units which are of the kind described in the sub-section.

30. In the context of the events which we have tried to describe above, the intent of the proposed amendment to Section 9 is quite clear. The Board is advised that it must hereafter pay greater attention to applications for units which are smaller than system-wide or corporation-wide or country-wide. This is made even clearer to the Board by a further amendment under which an appellate division would be set up under the Act. The Board is in effect warned that if it does not heed sub-section (4a) it is likely to have its decision overturned. Sub-section (4a) is therefore a remarkable and in fact extraordinary demonstration of the calculated downgrading of a public tribunal which for a period of some 20

years has administered a statute with little or no criticism until the CNTU began its campaign.

31. We wish to make it clear that we do not oppose local or regional units as a matter of principle. Such units have been certified by the Canada Labour Relations Board where the Board has found them to be appropriate. But we do object to a legislative enactment which is coercive in its implications and partisan. The Canada Labour Relations Board must be free to make its findings on appropriateness on the basis of its evaluation of the facts as the law now permits it to do. It will no longer be free to do so if Parliament enacts Bill C-186 and more specifically sub-section (4a) of Section 9.

32. It has been alleged that the Canadian Labour Congress has been in opposition to Bill C-186 because affiliated unions of the Congress were likely to be affected and that the Congress would be indifferent to the Bill if the shoe were on the other foot. But the fact of the matter is that the proposed amendments go far beyond being a threat to this or that affiliate of the Congress. We submit to you that there is a public interest at stake which you cannot afford to ignore. We challenge, first of all, the proposition put forward that Congress affiliates have had some sort of monopoly in certifications and that the CNTU has consistently been on the losing end where applications for certifications are concerned. The record of the Canada Labour Relations Board is public and is there for all to see. It is perfectly clear that the Board, despite the criticisms which have recently been levelled at it from some quarters, has made findings of appropriateness which have varied from units local in scope to those national in scope; that it has rejected applications made by Congress affiliated unions as well as those from CNTU unions; and that it has granted applications to CNTU unions where there have been interventions by Congress affiliated unions.

33. What are the implications of sub-section (4a) as they affect the public interest? To answer that question it is necessary first of all to consider the purpose of labour relations legislation in general. The kind of legislation which is now common throughout Canada and has been since the end of the Second World War sets out to accomplish the following: to entrench the right of association of

wage and salary-earners; to provide for an orderly system of union recognition and collective bargaining; and to provide for orderly disputes procedures. Basically, therefore, the Labour Relations Act is as it were a statement of the rules of the game for labour and for management with the government acting somewhat in the role of the umpire. Behind the rules themselves is the public interest in stable labour-management relationships and for 60 years it has been the policy of the Parliament of Canada to encourage the settlement of industrial disputes where possible without recourse to either the strike or the lockout. That there are strikes or lockouts is not a measure of the failure of the system so much as an expression of the fact that industrial relations in a free society will inevitably produce some incidence of open conflict between labour and management. But the purpose of the government has been to minimize that conflict as a matter of public interest.

34. In those industries where there are now national bargaining units, collective bargaining is carried on between a union and the national employer as a single process ending in a single collective agreement. If there is a dispute between the parties, it is a single dispute and can be dealt with as such. If there is a stoppage then once again it is a single stoppage and can be dealt with as such. But if a national bargaining unit were, by virtue of sub-section (4a), to be broken up into several localized or regional units, then inevitably the situation must change. Where there is one bargaining process, there would be several. Where there is one possibility of dispute, there could be as many as there were local bargaining units. Where one stoppage might occur, there could be many. The situation may be even more complicated by the fact that a stoppage of work effected by one bargaining agent may compel others to stop work even though they have collective agreements still in effect. Thus, for example, should railway workers on the Canadian National Railways have a separate bargaining unit in British Columbia, a stoppage of work in that province alone may compel the cessation of railway activity far beyond the borders of that province, even to the most eastern part of Canada. The same kind of situation could occur within a national employer like the CBC or a large regional employer like the Bell Telephone Company.

35. The brief submitted to you by the Canadian Railway Labour Executives' Association demonstrates in what other ways fragmentation of national bargaining units and the multiplication of bargaining agents may create hazards which we doubt that the drafters of this legislation contemplated or anticipated. They may produce a breakdown in seniority systems, inhibit mobility and result in a breakdown in national wage standards which have existed for many years. We submit to you that these are problems which cannot be set aside in order merely to satisfy a partisan goal. At a time when the natural trend in collective bargaining is to move from the local towards the larger unit, it is irrational to seek to undermine the larger units where they have already been successfully established.

36. A case might more readily be made for the proposed sub-section if it could be shown that local or regional units were impossible to achieve or that certifications once granted remained in effect forever. But neither is the case. As we demonstrate below, local units have been certified in the CBC. Section 8 of the Act also makes possible the certification of groups of employees belonging to a craft or exercising technical skills. Section 11 enables the Board to revoke a certification "where in the opinion of the Board a bargaining agent no longer represents a majority of employees in the unit for which it was certified..." and this the Board has also done, in the case of IATSE in the CBC.

37. The arguments made above are supported in a study of Labour Relations Boards published by the federal Department of Labour in 1966. Writing on "Determination of the Appropriate Bargaining Unit by Labour Relations Boards in Canada", Professor Edward E. Herman stated:

38.

"Signification of the Boards' Decisions—The determination of appropriateness of bargaining units and certification of labour unions as exclusive bargaining agents for these units are probably the most important functions discharged by Labour Relations Boards; since their formation the Canadian Boards have issued over 30,000 certification orders. Their decisions on appropriateness of units can have 'far-reaching effects for the labour movement' since a bargaining unit deter-

mination by a Labour Relations Board 'can vitally affect the survival of a union in competition with rival organization.' The labour movement is not alone in experiencing the impact of public determination of bargaining units; management also feels the effect of practices by Labour Relations Board on this issue. For instance, the certification by a Board of a number of competing unions to represent different groups of employees in the same company may contribute to 'highly unsatisfactory bargaining arrangements.' As a result, a firm might be confronted with a situation that necessitates the bargaining of separate contracts with different unions; and this, in turn, might lead to competition between the various unions and might demonstrate itself during negotiations in exaggerated demands for better collective agreement provisions. Also, the existence of a number of certified bargaining units represented by rival unions in the same company might make it very difficult for a firm to introduce company-wide policies. The type, scope and composition of bargaining units that Labour Relations Boards decide on as appropriate for certification might make a difference between the certification and non-certification of a labour organization and between collective bargaining and its absence. A labour organization, in order to gain certification, must achieve a certain legally determined support from the employees in the unit, and the dimensions of the unit decided upon by a Board as appropriate might affect the union's chances of obtaining the necessary support of the employees in the unit.

"The practices of Boards with respect to determining the dimensions of bargaining units (as to whether they decide to certify a single or a multi-plant, or a single or a multi-employer unit) can also have important implications on such issues as industrial peace, the content and scope of collective agreements on uniformity of wages, hours of work and other working conditions. Thus, if a Labour Relations Board decided to certify a multi-employer rather than a single-employer unit (and assuming that the single-employer unit would not evolve as a

result of voluntary arrangements among the parties into an actual multi-employer unit), then in all probability the bargaining results would be vastly different from what they might have been under a single-employer certified unit."

39. In his study, Prof. Herman deals with the question of multi-plant or multi-location bargaining units (in Chapter 5). Turning specifically to the Canada Labour Relations Board he indicates the rationale which has been used by the Board both for multi-location bargaining units and for others as follows:

40.

"The Canada Labour Relations Board.

"This Board favours the certification of multi-location bargaining units. It is the only Board in Canada that grants such certifications on a large scale. The reason that this is more common under federal than under provincial jurisdiction is probably due to the particular types of industries under federal jurisdiction.

"Multi-location (or system-wide) bargaining units are a necessity in certain segments of the railway, shipping, trucking, airline, and broadcasting industries, because of their geographical characteristics; e.g., the certification of airline pilots on a single-location basis, instead of on a multi-location basis, would certainly be meaningless. However, in some industries under the jurisdiction of the CLRB—e.g., crown corporations, uranium mines, grain elevators and flour mills—single-location rather than multi-location certification orders are issued and, so far, the Board has refused to issue either single or multi-location certification orders to the banking industry.

"The Board's policy of favouring system-wide units whenever possible for the railway industry began with the Wartime Labour Relations Board on May 22, 1944, when this Board, in a case concerning CPR clerical employees, decided that railway clerks at one location (Toronto) did not constitute a craft distinguishable from similar clerical employees at other locations. The Board's minutes of that date state:

'It has not been shown that, as required by Section 5(2), (Wartime Labour Relations Regulations, P.C. 1003),

the majority of the employees affected are members of one trade union, as employees other than at Toronto would be affected, and if the positions which the applicant wishes to segregate in one small agreement were included in the larger or system agreement, many more employees than are referred to in the application would be affected.'

"In some of its reasons for judgments, the CLRB still refers to this decision by the WLRB. For example, the Teamsters made an application to be certified as a bargaining agent for:

'All employees employed by the Canadian Pacific Railway Company in its Merchandise Service at Vancouver, B.C., Victoria, B.C., Duncan, B.C., Nanaimo, B.C., Port Alberni, B.C., Courtenay, B.C., and Campbell River, B.C., or elsewhere in Canada.'

"In this case the CLRB stated that the 1944 decision by the WLRB:

'was accepted as approving a national or system-wide unit for the classification affected. It has been accepted by both railways and by the unions affected as applying to a number of other classifications of railway employees.'

and the Board felt that experience over the last sixteen years has convinced it that:

'bearing in mind the history and circumstances of railway operation and collective bargaining in the railways in Canada, it was a wise decision, and that it has contributed materially to industrial peace in the railways. In the Board's opinion, a rule so long established, so generally accepted, and so useful in operation should not be departed from without strong and cogent reasons.'

41. Since the broadcasting industry, more specifically the CBC, has been central to the issue of whether or not there should be local or regional bargaining units, it may be instructive for your committee to have Prof. Herman's comments on this particular industry as well:

42.

"Broadcasting is yet another industry in which the CLRB approves of system-wide certification, especially in cases where a strike in one location could tie up the whole system. For example, the Board would certify all CBC radio news personnel across Canada, and similar practices would be followed for the television news personnel, the film department staff, and the radio and television technicians.

"In certifying system-wide units the CLRB observes the precedents set by the WLRB. For instance, in the case of the Canadian Broadcasting Corporation and the International Brotherhood of Electrical Workers, the WLRB held that a unit composed of radio broadcast technicians employed at the Toronto office of the Corporation would be inappropriate. The Board's view was that these employees were only a small proportion of all the employees of the same classification employed at 17 offices of the Corporation throughout Canada and, in giving its reasons for the decision, the Board stated that:

'The Canadian Broadcasting Corporation is engaged in the business of communications and its radio broadcast technicians work together on the same broadcast, although their duties are performed at points which are hundreds of miles apart.'

"The WLRB did, however, certify single-location bargaining units of employees who would not, in case of a strike, tie down the whole system, and this precedent has been followed by the CLRB in certifying such units for building maintenance employees of the broadcasting industry."

43. It may be seen from the foregoing that the Canada Labour Relations Board, far from behaving either irrationally or in a partisan spirit, has carried out its functions responsibly and on the basis of carefully developed jurisprudence. Both Prof. Carrothers and Prof. Herman, together with the jurisprudence cited by them or by us directly, make it abundantly clear that there is no need to hedge the Canada Labour Relations Board about with the kind of restriction on its authority which is bound to result from the

introduction of sub-section (4a) to Section 9 of the Industrial Relations and Disputes Investigation Act.

44. Section 2 of Bill C-186 proposes an amendment to sub-section 3 of Section 58 which would have the effect of providing the Board with a First Vice-Chairman and a Second Vice-Chairman in place of a single Vice-Chairman as at present. The same amendment specifies the powers and functions of the Vice-Chairmen as they are to be affected by subsequent amendments which we will deal with below.

45. We wish to make it clear that we have no basic opposition to the appointment of a Second Vice-Chairman as such if the purpose of having two Vice-Chairmen is to enable the Board to become more bilingual in character than it is now. A Francophone Vice-Chairman is in keeping with the spirit of the times. For that matter, we would consider it eminently proper for the chairman to be Francophone when the occasion arises to replace the present incumbent. It is hardly necessary to point out that it has always been entirely within the power of the Governor in Council in making appointments to the Board to have established a balanced Board in that respect. It may be of interest to this Committee to know that the two members of the Board who are nominees of the Canadian Labour Congress present such a balance in themselves. It cannot be argued, therefore, that the Canadian Labour Congress is inimical to a bilingual Board just as it cannot be argued that it is inimical to bilingualism and biculturalism in general. The Congress record can stand up to scrutiny in all these respects.

46. Section 3 of Bill C-186 proposes to amend the Act by inserting a new Section 58A and a new Section 58B. Section 58A simply provides that the First Vice-Chairman and the Second Vice-Chairman respectively may replace the Chairman of the Board if he is absent or unable to act or if the office of Chairman is vacant. We have no particular comments to make here; we are principally concerned with Section 58B.

47. The essence of Section 58B is to make it possible for the Canada Labour Relations Board to be divided into panels for the conduct of its business. By virtue of sub-section 2 it would be possible for the Board to be fully

constituted for the purpose of conducting its business if it consisted of the Chairman or a Vice-Chairman designated by him and one representative each of the employee and the employer interested. Sub-section (3) provides for the Board to sit in divisions for the conduct of Board business. In this context a division of the Board consists of either the Chairman or a Vice-Chairman designated by him and at least two other members to be designated by the Chairman provided that there is an equal number of employer and employee representatives.

48. We consider this particular amendment to be unnecessary in terms of the work of the Board and unjustified otherwise. It is absolutely true, as the Minister of Labour stated in the House of Commons on December 4th last, that the Canada Labour Relations Board "has done yeoman service for the people of Canada" but it can hardly be said that this commendation is due to the heavy volume of its work. In his study referred to above (Appendix AB), Mr. Herman provides data on applications for certification dealt with by the Board from September 1, 1948 to March 31, 1961. The total of applications granted, rejected and withdrawn in that period comes to 1,202. (There were as at March 31, 1961, still 24 applications under investigation which are not included in that total.) The average per year for this 13-year period is about 92 cases. The Minister of Labour has stated that in the last two years, applications have averaged in excess of 140 a year. With much respect, this still does not constitute a heavy burden and the fact of the matter is that the Board is able to carry out all its functions by meeting two or three days a month. It is the nature and the quality of work performed by the Board which make it important and not the quantity. It is worth nothing, by way of contrast, that in the period from March 31, 1949 to March 31, 1961, the Ontario Labour Relations Board handled a total of 8,573 applications for certification, or an average of about 660 per annum (Appendix AC). It is easy to understand why the Ontario Board finds it necessary to sit in divisions or panels but this reasoning does not apply to the Canada Labour Relations Board.

49. We are persuaded that the reason for the establishment of divisions of the Board was more clearly brought out when the Minister of Labour responded to a question from Mr. Starr (Hansard, December 4, 1967, p. 4992):

50.

"Mr. Starr: Mr. Chairman, may I ask the minister whether that means that if certification were applied for by the CNTU the two members who were representatives of the CNTU would be on that panel?"

"Mr. Nicholson: This will become clearer when the bill itself is actually before the house, but I would hope that if there are three representatives from the CLC as against one from the CNTU there might be a pattern established so there will be a balance in representation; in other words, that there would be one from each respective group, depending on the particular problem being discussed."

51. What this amounts to, if we understand it properly, is that there will be an alteration in the present distribution of members on the Board. The divisional structure would be used to provide for a so-called balance of interests which allegedly is absent under the present regime. This was brought out in strong terms by the Minister of Manpower and Immigration who spoke during the debate on the same day (Hansard, p. 5003):

52.

"Mr. Marchand: ... We want simply to make sure that some present-day wrongs cannot be committed by the board whose members represent interested parties, which is quite normal.

"Moreover, I think, personally, that such a representative character of labour relations boards should be maintained, for this is a tried and true formula in the labour relations field. However to say that we would destroy the objective character of the board, just because we want, in some cases, to balance out the board in order to prevent any wrongdoing, is just too much. This argument would hold, perhaps, for someone who has never seen a labour relations board in operation, but I disagree, being quite aware that the people who represented my local within the Canada Labour Relations Board spoke for my local, just like others spoke for the FWQ and employers' representatives spoke for management. In my estimation, there has never been any question of some other form of objectivity in the act.

"Therefore, Mr. Chairman, to talk about a subterfuge, is really to go a little far. In fact, when a labour union, which is not represented on the board or has a minority representation, comes before this body and sees its case lost from the beginning or cannot obtain justice, because of the interplay of interests and the natural tendencies and concepts of the representatives, I think that any impartial and fair person should be ready to reconsider the structure of this board—bearing in mind the cases I have referred to—in order that all the Canadian citizens, all the organizations—not only a few, but all—may be assured of a fair treatment by the Canada Labour Relations Board..."

"That does not mean that the members of the board are dishonest people; let no one put in our mouth things we have never said. Personally, I think that the members of the board are honest people, whether they belong to the Canadian Labour Congress or they are appointed by employers. I think that most of them—all those I know, anyway—are people upon whom I would rely in any case, except in cases where they have private interests. It is normal then for the legislator to balance the representation within the board so that the interests at stake are not sacrificed to the process of law. That is all we want to do; we are seeking to preserve the principle of representation of the parties concerned within that board. However, it is impossible to have them all represented on the CLRB..."

53. We do not consider that the evidence of Board activities demonstrates that the Board in its present form, without division, has produced "wrongdoing". As we have shown in this brief, the CNTU has been successful in obtaining certifications despite the fact that it is ostensibly in a minority position on the Board. It is worth noting furthermore that it has succeeded even where Congress affiliated unions were involved at the same time. In addition, the CNTU obtained certification in 1967 even at a time when its nominee on the Board was boycotting the Board's proceedings.

54. The argument for divisions of the Board on the grounds that this is a way of providing justice where formerly injustice prevailed

simply does not hold true. As the jurisprudence referred to above makes clear, the decisions of the Board have not been based on purely sectional interests as the Minister of Manpower and Immigration suggests but on much more reasonable grounds. We feel that the Minister allowed himself to be carried away when he stated (Hansard, p. 5004) that: "I know full well that certain groups were defeated before the Canada Labour Relations Board strictly because they did not have representatives to fight for their interests. It is obvious. Everyone knows it." We submit that it is not obvious and is simply not in accordance with the facts. We challenge Mr. Marchand or anyone else to prove it. An examination of the *Labour Gazette* for 1967, in which there is a record of certifications granted by the Canada Labour Relations Board, shows that the Board certified the following organizations which are not affiliated either with the Canadian Labour Congress or the Confederation of National Trade Unions, the only two trade union centres which have nominees on the Board: Teamsters; Mine, Mill and Smelter Workers; Canadian Marine Officers Union; Seafarers International Union; United Electrical Radio and Machine Workers of America; Professional Transport Workers Union of Canada; District 50, United Mine Workers of America; Syndicat des employés de transport de St. Rémi; Syndicat des employés du Transport d'Anjou Inc.; and Syndicat des employés de la Banque d'Epargne de la Cité et du District de Montréal. In some instances, as in the case of the Teamsters, the Canadian Marine Officers Union and the Professional Transport Workers Union of Canada, there were several certifications granted. It can hardly be asserted, therefore, that only CLC and CNTU affiliated unions have any hope of obtaining certifications before the Canada Labour Relations Board.

55. The Canada Labour Relations Board has demonstrated a record of this kind precisely because it has executed its functions in a spirit of impartiality. Its members, employer and employee nominee alike, have set out to administer the Act according to its terms and not to gain some self-serving objective. As we observe elsewhere, they could not have been so free of criticism for so many years if that had not been the case. But Bill C-186 will accomplish just what the Minister of Manpower and Immigration alleges is now the case. It will produce a Board with built in

biases. The so-called balanced Board would and must inevitably be one on which every nominee would be cast in a partisan role, because that is how it would be constructed. The Bill is therefore destructive of the very ingredient which has preserved the Board's vitality.

56. Little or no reference has been made to the behaviour of the employer members of the Board. We have every reason to respect the employer members for the way in which they have performed their functions. It would be remarkable, it seems to us, if the employer members were to sit back complacently year after year while one injustice after another was being committed. It would be equally remarkable, we submit, for the Chairman of the Board to have tolerated such a situation in view of his independence of the kind of pressures which the Minister of Manpower and Immigration asserts to be the burden of the employee nominees. It is on the basis of all this that we submit to you that there is no merit in the proposal to amend the Industrial Relations and Disputes Investigation Act by inserting the proposed new Sections 58A and 58B.

57. Section 4 of Bill C-186 proposes to repeal sub-section (1) of Section 60 and to substitute in its place a new sub-section (1). It appears to us that this amendment will serve to clarify the authority of the Board and is therefore not objectionable.

58. Section 5 of the Bill provides for the insertion in the Act of a new Section 61A. The purpose of this Section is to establish an appellate division to hear appeals against decisions of the Board in the case of applications as described in the proposed Section 9(4a).

59. Section 61A is novel in several respects. In the first instance, it sets aside Section 61(2) of the Act which declares that "A decision or order of the Board is final and conclusive and not open to question, or review—". The authority of the Board has thus been diminished and this action has been taken in that particular area which lies at the very heart of the Board's functions. It is worth observing here that there is no other Labour Relations Board in Canada whose decisions as to appropriateness are subject to appeal in this fashion. The Boards' decisions in all jurisdictions

possess finality. (There are two provincial statutes, the Nova Scotia Trade Union Act and the Prince Edward Island Industrial Relations Act which provide that the Labour Relations Board may of its own motion state a case in writing to the Supreme Court of the particular province on a question of law.) Reviewing the jurisdiction of Boards, Professor Carrothers observes as follows:

60.

"The statutes are currently interpreted to grant the Board exclusive and reviewable jurisdiction even to the point of having jurisdiction to err in respect of questions specifically delegated to it by the legislature for determination. These questions are largely questions of fact, or inferences or conclusions of fact; but a number involve questions of law. Nor does the jurisprudence of the common law accommodate a clear designation of what is a question of fact and what a question of law. Consequently, the statutes give the Boards a certain jurisdiction to err in law. The justification is that the total operation of the policy of the legislature requires finality, and the possibility of error is the calculated price for maintaining the integrity of the legislation as a dynamic application of legislative policy. However, as a precaution, two provinces, Nova Scotia and Prince Edward Island, have endowed the Board with jurisdiction to state a case to the Supreme Court of the province on any question which in the opinion of the Board is a question of law."

61. Sub-section (1) of the proposed Section 61A provides that the appellate division will consist of "two other persons representative of the general public who shall be members of the Board for the hearing and determination of appeals under this section" together with the Chairman or the person acting for the Chairman. Without conceding in any respect as to the desirability or validity of the proposal as a whole, we wish to express our objection to the nature of the appointees. They are to be appointed by the Governor in Council and, if we understand the provision correctly, they will presumably be representative neither of the employer nor of the employee interest. We are frank in saying that we consider this particular aspect of the section as a device to circumvent the Board

when a decision has been made which is politically not palatable. The government in submitting this proposal has ignored the fact that Section 61(2) which makes a decision or order of the Board final and conclusive also permits the Board to reconsider any decision or order made by it under the Act and to vary or revoke any decision or order made by it under the Act. The Board can therefore be its own appellate division.

62. What is undoubtedly the most serious objection that can be taken to Section 61A is the virtual certainty that every unsuccessful applicant or dissatisfied party will appeal the decision of the Board. What have the parties in those circumstances to lose by appealing? At worst, the decision of the Board will be confirmed; at best, it may be reversed. But the right to appeal carries other implications as well. It raises the possibility of delay and litigation where the criteria should be despatch and finality. Delays in certification lead to delays in collective bargaining and in the conclusion of collective agreements. Industrial relations cannot but suffer as a consequence. We therefore find that this suggested amendment to the Act is objectionable and should not be enacted.

63. In effect, therefore, we object to Bill C-186 as a whole although we have expressed acceptance of the proposed change in Section 58(3) and recognize that the proposed new Section 60(1) is desirable in the interests of greater administrative efficiency. In broad terms our difference of opinion with the government over Bill C-186 is because of the implications it holds with respect to the purpose of labour relations legislation and the effect on the exercise of the right of association.

64. Those who support Bill C-186 have made much of the fact that its purpose is to permit workers to join the union of their choice, that is, to exercise in the fullest sense the right of association. The Canadian Labour Congress can hardly be accused of a lack of interest in this right. It has had many occasions to defend it but it is a right which since the Second World War has been exercised within the framework of a particular type of labour relations legislation. The Industrial Relations and Disputes Investigation Act, like similar provincial legislation, entrenches the

right of association. Section 3(1) of the federal Act specifically states that: "Every employee has the right to be a member of a trade union and to participate in the activities thereof." But an examination of the legislation as a whole soon indicates that this is a right which may be exercised subject to certain statutory conditions. It is indeed the right of an employee to be a member of a trade union but there is no absolute right for that trade union to be the bargaining agent for that employee. The Industrial Relations and Disputes Investigation Act sets out conditions under which a trade union may become a bargaining agent and the consequence of those conditions is that some trade unions may become bargaining agents and others not. There may consequently be a considerable gap between membership in a trade union and representation by it.

65. It has become a matter of public policy in all eleven jurisdictions that a trade union which can establish majority support in a bargaining unit which is appropriate for collective bargaining purposes is to be granted exclusive representation for the employees of that bargaining unit. In the language of the Act, the certified trade union "shall have exclusive authority to bargain collectively on behalf of employees in the unit and to bind them by a collective agreement..." (Section 10(a)). What this amounts to is that the absolute right of association which is significant only if it is accompanied by a similar right of representation has been modified in the interest of eliminating inter-union rivalry in the work-place by granting exclusive bargaining rights only to that trade union which can establish a majority position within an appropriate bargaining unit. A minority trade union (assuming there is one) must step aside for at least a specified period of time before it can try to establish that it has achieved a majority position. This has been the case for about a quarter of a century and on the whole it has worked reasonably well so far as this aspect of labour relations is concerned. To the extent that stability in industrial relations is a desirable objective, where by stability is meant the exclusion of active inter-union rivalry, the present legislation has achieved its purpose and has enjoyed the approval of Parliament and the provincial Legislatures. The question remains whether the CNTU actually is opposed to this concept. We are convinced, as we have suggested

above, that the CNTU's assertions about freedom of association are in effect no more than a smoke-screen behind which it would be possible to detach relatively small groups of employees from national bargaining units and gain bargaining rights for these smaller units.

66. As recently as 1964, Mr. Jean Marchand, then president of the CNTU in his report to the convention of that organization made the following remarks as to the present system of labour relations legislation:

67.

"The North American labour traditions, and our legal context, must be taken into account while studying the problem of unity in the Canadian labour movement.

"Since the Wagner Act was adopted in the United States, under Franklin D. Roosevelt's New Deal, legal recognition of the unions, at the enterprise level, leads to the monopoly of union representation. In other words, the union with a majority of members becomes the sole spokesman for the workers of the whole negotiation unit. Our Canadian labour legislation has retained this conception which was, in fact, already well integrated into our traditions.

"It is not our purpose here to question the merits of that system which has led to the various formulas of union security we know, and which have greatly contributed to the stabilization of the labour movement. We must however admit that it does set a limitation to labour freedom. Minority groups cannot survive under these conditions. In spite of the special status which they were granted by the Province of Quebec, none of them has been able to last.

"This restriction to labour freedom can easily be justified by reasons of efficiency and stability. It even constitutes a protection against anti-trade-unionism on the part of an employer. But the workers should have an opportunity to question, at pre-set periods, the mandate of the recognized union."

68. It should be a matter of interest to your Committee that the Public Service Staff Relations Act which provides for collective bargaining in the public service of Canada

requires the establishment of bargaining units which are national in scope. Occupational categories and groups are both horizontal in nature and are established without regard to the location of the employees concerned. There is admittedly a provision in the Act under which it may be possible to carve a smaller unit out of a larger one if the applicant for the smaller unit can establish that not to carve out "would not permit satisfactory representation of employees included therein" (Section 26(5) (a)). This particular provision, however does not specify a local or a regional unit as is the case in the proposed sub-section (4a) of Section 9 of the Industrial Relations and Disputes Investigation Act. A unit under Section 26(5) could quite conceivably be a national unit in itself and in fact applications have been made for such units. The Parliament of Canada has thus were its own employees were concerned clearly established the principle of national bargaining units and we submit it should continue with this principle or at least make it possible for the Canada Labour Relations Board to have the authority to do so where in its judgment such units are appropriate.

69. There is a further element in this controversial issue to which we feel we must refer. Much has been made of the inequality of representation on the Canada Labour Relations Board. The claim is made that the CNTU is out-numbered three to one among the employee representatives. We consider that there is no inequality of representation whatever. We rely for our argument on the latest (1967) edition of "Labour Organizations in Canada" which provides data on trade union membership as at January 1, 1967. The Canadian Labour Congress is shown as having 1,450,619 members, the CNTU 197,787. Since then both trade union centres have grown in membership but the disparity in

size remains. If the principle of representation by population has any validity here, the CNTU is quite adequately represented.

70. We have in this submission endeavoured to demonstrate to you that Bill C-186 is legislation badly conceived and harmful as to its consequences. We take strong exception to legislation which is so patently partisan in its intent. Even if the legislation itself does not appear to suggest discrimination, the statements which have been made in its support make it abundantly clear that Bill C-186 was conceived as a concession to the CNTU. Legislation which is so clearly partisan is bound not only to give offense but must inevitably undermine confidence in the quality of the legislation itself. The Industrial Relations and Disputes Investigation Act is not a perfect instrument but Bill C-186 would make it very much inferior to what it is now. It is bound not only to worsen the inter-union rivalry which now exists between our Congress and the CNTU and which must have a negative effect on labour-management relations, but also increase the possibilities of industrial disputes and otherwise adversely affect the government's manpower policies. It is for all these reasons that we earnestly suggest to you that Bill C-186 should not be enacted.

Respectfully submitted,

CANADIAN LABOUR CONGRESS,
Donald MacDonald, *Acting President*
and *Secretary-treasurer*,

William Dodge, *Executive Vice-President*,

Joseph Morris, *Executive Vice-President*.

Ottawa, February 20, 1968.

APPENDIX XI

Roméo Girard
February 2, 1968.

Honourable John R. Nicholson,
Minister of Labour,
1376 Sir Wilfrid Laurier Building,
340 Laurier Avenue West,
Ottawa 4, Ont.

Honourable Minister:

In today's editions of the Montreal Gazette and the Toronto Globe and Mail I find statements to the effect that the International Brotherhood of Teamsters supports the Confederation of National Trade Unions (C.N.T.U.) in their bid to have Bill C-186 accepted and the changes made into Law.

I wish to call to the Honourable Minister's attention that the International Brotherhood of Teamsters is a large labour organization and that one individual, or a group of individuals, making a statement does not mean that the entire International Brotherhood of Teamsters supports that statement unless, the group making the statement is the General Executive Board of the International Brotherhood of Teamsters.

Therefore, Honourable Minister, I, as the Representative of the Eastern Conference of Teamsters (Canadian Division), a subordinate body of the International Brotherhood of Teamsters and the governing body of Local Unions in Eastern Canada, and also as President of Teamsters Joint Council No. 91, which represents the Teamsters in the Province of Quebec, must say that the Teamsters in Eastern Canada do not support Bill C-186, and furthermore I have never received an official copy of the Bill. I have only the portions and

comments, as published in the newspapers and other news media, to base my objection on.

I strenuously object, Mr. Minister, to any Labour Organization having the right to carve out segments of a National or Federally certified group of employees because:—

No. 1. It will bring nothing but chaos to both Labour and Management.

No. 2. It can cause strikes in any given area that could interfere with the entire operation of a transportation system which could affect the entire Nation.

No. 3. In mentioning only the above I am sure, Mr. Minister, you can see that the whole economy of Canada could be affected by the passage of Bill C-186.

Mr. Minister, I humbly beg you to consider the implications this Bill could create and open your door to hearings in which representatives of all Labour Organizations could be heard before this Bill is made into Law which, could help a few and hurt so many, and, with all apologies to you, Mr. Minister, let it be known that no individual in Canada has the right or the authority to speak for the sixty thousand Teamster members in Canada, or the one million eight hundred thousand Teamster members in North America, who form the International Brotherhood of Teamsters.

Respectfully submitted,

H. Ray Greene, President,
Joint Council No. 91.
Representative E.C.T.
(Canadian Division)

APPENDIX XII

SUBMISSION BY THE PUBLIC SERVICE ALLIANCE OF CANADA to the PARLIAMENTARY
COMMITTEE ON LABOUR AND EMPLOYMENT

RE: BILL C-186

A BILL TO AMEND THE INDUSTRIAL RELATIONS AND DISPUTES
INVESTIGATION ACT

February, 1968.

The Public Service Alliance of Canada is vitally concerned that at a time when Management-Labour relations in some areas of Canada are somewhat strained, the Government has decided to introduce legislation that will cause a further straining of this relationship. The introduction of the proposed amendments to the Industrial Relations and Disputes Investigation Act are, in our view, unnecessary and unwanted by the vast majority of the workers of Canada. In our opinion, the present structure of the Canada Labour Relations Board is well suited to meet the needs of both Labour and Management. A review of the past decisions of the Board indicated that it has acted in a fair and reasonable manner. To inject an appeal system into the legislation would open the door to many unwarranted delays in the certification process. Surely competent men such as presently sit on the Board are more than capable of making decisions which are both just and fair.

The Alliance is not disposed at this time to enter into a dialogue on all the ramifications that the proposals might bring about in the private sector. While we are concerned as a part of the family of Labour, we are naturally concerned with the implications such proposed changes may well have on the employees in the Public Service. It is on this particular aspect that we wish to make our views known to you. We would like, at this time, to bring to your attention some of the historical background of the Public Service that we feel would tend to make our position much clearer to you. We feel certain that the majority of the members of this Committee are sufficiently well enough acquainted with the Public Service Staff Relations Act that a detailed outline of the Act at this time is unnecessary.

27997—7½

HISTORICAL BACKGROUND

A review of particular sections of the Deliberations of the Joint Committee of the House of Commons and Senate, established to provide legislation to meet the requirements of collective bargaining in the Public Service, we feel would be useful.

A Preparatory Committee on collective bargaining in the Public Service was established in August, 1963. The Prime Minister appointed Mr. Arnold Heeney the Chairman of this Committee. The Committee had a number of permanent members but were free to call upon the assistance and advice of competent people from industry as well as from the Public Service. The Preparatory Committee, after careful and intensive study, presented its proposals to the Government in the middle of 1966. Following the publishing of the bill and its subsequent referral to the Parliamentary Committee, many attempts were made to change it, both by members of the Committee and interested groups of employees.

Of major significance were amendments proposing changes to the clauses dealing with bargaining units, these clauses were 26(5), 28, 28(1), 32 and 34. It should be noted here that the majority of these proposed amendments were designed to fragment or destroy, in one way or another, one system of national bargaining units that the Committee had so meticulously established to suit the needs of the Public Service. One such amendment to clause 34 of the bill proposed that all certified organizations should allow "all organizations which have succeeded in having 10% of employees organized in one group to participate in negotiations". The amendments implied that national bargaining units could not properly represent the interests of the employees in specific locales across Canada.

and that by the fragmentation of national bargaining units, the employees would have an opportunity of grouping, according to their community of interests. The Committee, after long deliberation, found that this type of amendment was completely unacceptable.

The Committee in its wisdom and in an effort to overcome some, if not all of the objections to the previous mentioned clauses, agreed to the following amendments to clause 26(5), which reads as follows:

"Subsection (4) does not apply where, upon an application for certification as bargaining agent for a proposed bargaining unit,

- (a) the employee organization making the application, or any employees in the proposed bargaining unit has filed with the Board an objection to the determination of a bargaining unit in consequence of the application on the basis specified in subsection (4), on the ground that such a bargaining unit would not permit satisfactory representation of employees included therein and, for that reason, would not constitute a unit of employees appropriate for collective bargaining; and,
- (b) the Board, after considering the objection, is satisfied that such a bargaining unit would not, for that reason, constitute a unit of employees appropriate for collective bargaining".

A careful study of the wording of the amendment indicated that the composition of a bargaining unit is left to the determination of the Public Service Staff Relations Board. The built-in guidelines in the amendment makes it quite clear that the Board would have to satisfy itself that further fragmentation of the bargaining unit would not serve the best interests of the employees.

A further decision of the Board may well serve as an illustration of its thinking. The Confederation of National Trade Unions filed interventions to all applications for certification for the 12 occupational groups in the Operational Category, on the basis that the intended bargaining units would not provide proper representation for the groups involved. The first application to be reviewed by the Board was the Hospital Services Group application by the Public Service Alliance. The Board found, after due delibera-

tion, that the intended bargaining units would give proper representation to employees. Other interventions by the Confederation of National Trade Unions were dismissed on the same grounds as those applied in the Hospital Services Group.

It is difficult for the Alliance to understand what motivated the proposed changes to the Industrial Relations and Disputes Investigation Act which would allow the breaking up of national bargaining units in light of the position so recently taken by the Government when dealing with Bill C-170. If it was undesirable to fracture national bargaining units for the proper functioning of Labour-Management relations in the Public Service, surely it must be as undesirable in the private sector.

THE EFFECTS OF BILL C-186 ON THE PUBLIC SERVICE

Parliament has taken the position for the Public Service, that initially, units suitable for certification should be along national occupational group lines (with only hierarchical considerations as a qualification to this, as per Section 26(4), (a), (b) and (c) of the Public Service Staff Relations Act). The exception to this is found in Section 26(5) of the Public Service Staff Relations Act). The exception to interpreted as follows: "There is an onus resting on an employee organization making an objection under sub-section (5) to show that the determination of a bargaining unit on the basis specified in sub-section (4) would not permit satisfactory representation of the employees included therein".

This bargaining unit relationship to classification or group lines is re-affirmed under Section 32 of the Public Service Staff Relations Act which will apply after the initial certification period. Section 32(2) states "In determining a unit appropriate for collective bargaining, the Board shall take into account, having regard to the proper functioning of this Act, the duties and classification of the employees in the proposed bargaining unit in relation to any plan of classification as it may apply to the employees in the proposed bargaining unit".

The above criteria are quite easily interpreted but we are fully cognizant of the fact that the Public Service Staff Relations Board has, during its hearing for certification, allowed references to precedents in other jurisdictions. We expect, and indeed it has been indicated

to us, that at the end of the initial period of certification, various groups will apply to the Public Service Staff Relations Board to break out parts of existing national bargaining groups in the Public Service. If the proposed amendments to the Industrial Relations and Disputes Investigation Act are passed, these groups would surely use them as arguments for the fracturing of national bargaining units in the Public Service. The Public Service Staff Relations Board might well have to recognize the precedent that will be created if these amendments become law. If this should be the case, conditions in the Public Service would, in our opinion, become nothing less than chaotic.

For example, the Minister of Veterans Affairs could well find that his employees in the Hospital Services Group will be represented by the Teamsters in Western Canada, the Public Service Alliance in Eastern Canada and the CNTU in Quebec. The Minister of Transport might find his Ships Officers on the West Coast represented by the CMSG, the Officers in the Lake area by the PSAC, and the East Coast Officers represented by the CBRT & GW. In National Defence, the General Labour & Trades Group could be divided between PSAC in all but Quebec, where the CNTU might well prevail. The Postmaster General could find he has the CNTU in Quebec and the CUPW & FALC in the rest of Canada.

Following from this would be the competition amongst the Unions to enlarge or recapture membership; the development of jealousies regarding work jurisdictions and a tremendous increase in activity by Unions to insist upon their members striking in order to demonstrate their effectiveness; increase in problems revolving around picket lines; varying benefit packages and union whipsawing of government negotiators with respect to contract demands.

POSITION OF THE PUBLIC SERVICE ALLIANCE OF CANADA

It has taken more than fifty years to arrive at our bargaining position in the Public Service. It may well be that the present legislation will require some changes but we do not feel that the Government, which introduced the legislation, should aid and abet those who would seek to destroy its principles. We are firmly convinced that the proposed amendments to the Industrial Relations and Disputes Investigation Act would provide the necessary precedent to do so.

In conclusion, may we say that the Alliance is in full agreement with the position taken by the Canadian Labour Congress, with whom we are affiliated, and subscribes fully to the contents of its brief which we believe has been presented to you.

APPENDIX XIII

A BRIEF of the CANADIAN UNION OF PUBLIC EMPLOYEES (CLC) to the STANDING COMMITTEE ON LABOUR AND EMPLOYMENT of the HOUSE OF COMMONS

RE:

BILL C-186—AN ACT TO AMEND THE INDUSTRIAL RELATIONS AND DISPUTES INVESTIGATION ACT

OTTAWA, Ontario

February 20, 1968

Mr. Chairman, Honourable Members of the Committee:

The Canadian Union of Public Employees submitting this Brief appreciates the opportunity to express its views concerning Bill C-186—an Act to amend the Industrial Relations and Disputes Investigation Act.

CUPE has constantly supported the principle of national bargaining unity and is opposed to the breaking up of the existing system-wide units. CUPE also recognized the need for a new approach to the problem of labour relations and has sought to bring together employees on the basis of common economic interests.

This submission is therefore an extension of our views expressed at different times and at different occasions.

THE CANADIAN UNION OF PUBLIC EMPLOYEES

At the outset, we should perhaps explain the make-up of our organization and how it functions.

The Union has a long experience with labour-management relations in the public service and it has been able to test, in its daily experience, the advantages and disadvantages of Canadian labour legislation and other related Acts. The main objectives of the Union, under its Constitution, are

- (a) The organization of workers generally, and in particular all workers in the public service in Canada.
- (b) The advancement of the social, economic and general welfare of public employees.

(c) The defence and extension of the civil rights and liberties of public employees and the preservation of free democratic trade unionism from attack or infiltration by Communists, Fascists or other hostile subversive influences.

(d) The improvement of the wages, working conditions, hours of work, job security and other conditions of public employees.

(e) The promotion of efficiency in public service generally.

(Article 2-Section 1)

Section 2 of the same Article provides, inter alia, that the objectives of the Union are to be accomplished through the following methods:

(a) Establishing co-operative relations between employers and employees.

(b) Promoting required desirable legislation. We are therefore committed under our Constitution to make representation to the Standing Committee on Labour and Employment of the House of Commons.

* * *

In addition, CUPE's answer to bilingualism and biculturalism is a decision of its Second National Convention in Vancouver (1965). Resolved that all correspondence, press releases, notices and other documents mailed to Locals and staff in the province of Quebec be bilingual.

Furthermore, the same Convention decided that all bulletins, circulars or publications issued by the National office to the various Locals be printed in French and English, the two official languages of Canada.

C-186

There is no secret that the intent of the Bill is to facilitate the break up of national bargaining units. Specifically, it is designed to enable the Confederation of National Trade Unions (C.N.T.U.) to slice groups of C.B.C. employees, railways, communication, transport and marine workers in Quebec. However, it would affect situations in other provinces and in other parts of Canada in industries covered by national bargaining units.

The effect of fragmentation will be far-reaching. Without national negotiations, rates may fall below the standard, there will be many variations in wages and still considering the economic aspects, the mobility of labour force will be completely crippled. One can also imagine an impact of strikes, under these circumstances.

This is not the way out of economic disparity, and as a matter of fact, fragmentation of national bargaining units may easily jeopardize attainment of the basic economic goals indicated in the terms of reference of the Economic Council of Canada.

The proposed amendment of the Industrial Relations and Disputes Investigation Act would promote a disunity and create inter-union warfare and, in one word, throw the labour movement into chaos by the changes in the law.

REPRESENTATION

Past practice rule provides that large organizations like the Canadian Manufacturers Association, Chambers of Commerce, the Canadian Labour Congress, Railway Unions and the Confederation of National Trade Unions have, on a basis of their membership, been represented on the Canada Labour Relations Board. The Minister of Labour wishes (as he stated in the House) to establish a balance in representation between the CLC and the C.N.T.U. representatives which now gives the CLC 2 members against one representative from the C.N.T.U. The fourth labour person is a representative of the railway unions, some of which are not CLC affiliates.

We respectfully submit that the C.N.T.U. is actually over-represented because while it has about 10 percent of Canadian labour force

organized in its ranks, the one C.N.T.U. representative on the Board makes a 25 percent of the total labour representation. Furthermore, it is misleading and inaccurate to say that the interest of the French section of the labour is represented only by the C.N.T.U. The CLC also represents the interest of these workers and the Quebec Federation of Labour has more members than the C.N.T.U.

BARGAINING UNITS

Having some considerable experience with Labour Relations Boards under eleven (11) jurisdictions in Canada, we question very seriously any suggestion that the amendment of the Industrial Relations and Disputes Investigation Act intends to clarify the definition of an appropriate bargaining unit.

First of all, the definition in Section 9 of the Act is in the widest possible term. A unit means a group of employees, whether it be an employee unit, a craft unit, a technical unit, a plant unit or any other unit and this bargaining unit must be, in the opinion of the Board, a unit appropriate for collective bargaining. The employees in a such unit may be employed by one or more employers.

At present, the Board has statutory power to exercise its discretionary power in the best possible way: it can include in, or exclude employees from the unit, examine the records of the applicant unions related to membership requirements, or order enquiries regarding membership of the employees, conduct and supervise representation votes, prescribe the nature of the evidence satisfactory to the Board, etc. etc.

The true effect of the amendment would achieve just the very opposite. It would muddy the definition of bargaining units and it would confuse Section 9, because instead of broadening the scope, it would insert into it a limiting term which will curtail the present discretionary powers of the Canada Labour Relations Board.

The net result will be an effect of ruining the reputation of the Board, which has had a near perfect reputation since its inception in 1948 and even before (War-time Labour Relations Board of 1944).

Furthermore, there will be another highly undesirable effect connected with the proposed amendments and this is a future impact on functions and powers of Labour

Relations Boards in Canada. We must not overlook that the clear separation of Court and administrative functions in 1944 and the power delegated by the Parliament to the Board to determine matters of policy relating both to the substantive and to the procedural operation of the Act, to promulgate rules which may amend, to police the statute in certain areas through its staff, and to sit in judgment on the rights, duties and powers of parties coming within the scope of the legislation, proved to be the prototype of most of the present Labour Boards in Canada.

The Board's policy is that the splitting of national bargaining units which is well established and which has been recognized as being appropriate by the Board, is not conducive to good labour relations and orderly collective bargaining. Actually the Board never took an absolutely negative position regarding splitting of a national bargaining unit which has no merit, but the Board does not wish to change what has existed in the past, unless it is for the better.

In this respect the Board considers several factors such as the history of collective bargaining within the industry concerned, it considers wishes of the employees and the community of interests which exists between the employees in a proposed bargaining unit. It also takes into account the whole set-up of the employer's enterprise.

CULTURAL AFFINITY

There has been much talk about the uneasiness which existed in the C.B.C. due to a lack of satisfaction with certain unions.

Our Union (CUPE) was involved, during the past two years, in two major cases dealing with application for certification of the production group of the C.B.C. employees. The C.N.T.U. lawyer argued that a group of employees from Montreal and Quebec should be carved out of a national unit and certified as a separate group mainly because of language and cultural differences. According to this argument

"the employees (in Montreal and Quebec) are employed in various tasks the final result of which is a cultural program. These people are performing a cultural task together, and all these different cultures must be expressed one way or another. Consequently (the C.N.T.U.)

wishes to create a bargaining unit which will prove to those who have the most interest in common that the application should be accepted." (Transcript of Proceedings—C.L.R.B.)

The same lawyer (Louis Pratte) claimed that the C.N.T.U. has an overwhelming support of the C.B.C. employees in Quebec and he did this in spite of a vote which resulted from the application for certification by CUPE five (5) months before and in spite of the official figures published by the Board.

Out of 701 eligible voters in Montreal

632 votes were cast

72 in favour of IATSE (a C.L.C. affiliate)

292 in favour of CUPE (a C.L.C. affiliate),
and

262 in favour of the C.N.T.U.

In total, the C.N.T.U. received only 37 per cent of votes in Montreal. In the City of Quebec there were 28 votes cast, 28 of which were in favour of CUPE. So much about the argument pertaining to wishes of employees concerned.

Now, where is the logic in the so-called "cultural affinity" argument? Let us look at the facts. We are dealing with a very divergent group of employees, men and women who perform tasks and functions which are extremely diverse. There are carpenters, painters, manual employees—a very large number of these people are manual employees—who sometimes, during the same day, work on the French and English network. What has this to do with cultural affinity, with language differences? Is there a special status for Montreal and Quebec.

If we are going to fragment, we are going to create a group of splinters in C.B.C. and form a precedent which might very well creep into other groups in the C.B.C. and other Crown corporations such as Air Canada, Canadian National Railway and so on. If we recognize "regional interest" in Quebec, why not for instance in Newfoundland where still many people have not reconciled themselves to Confederation. And how about other regions in Canada, provinces, cities, language and cultural groups, etc.?

It has always been our argument that the difficulties, especially in the C.B.C., did not

result from national bargaining units, but from the inadequacies of the bargaining agents involved in national units.

APPEAL DIVISION

It seems to us that the appeal procedure proposed by Bill C-186 is an effort to combine the principle of representation embodied in the composition of the Board, with the public interest element of the Appeal Tribunal.

This, of course, is in open opposition to the traditional approach of keeping labour quasi-judicial tribunal free from appeal procedure. There is a privative clause in every Labour Act and the effect of this clause is to oust the jurisdiction of the Superior Courts to interfere with any decision of the Board which is made in exercise of the powers conferred upon it by the Parliament (Legislature). Within the limits of these powers the Board cannot make an order which it has no jurisdiction to make by which a person affected is left without a remedy. Traditionally, only review and not appeal is possible where there is a breach of natural justice, a defect in jurisdiction or error of law on the face of the record.

Frankly, with the appeal procedure, decisions of the Board would be only a waste of time and money of all concerned, an insult to the Board's integrity, because everytime the interest of the C.L.C. affiliates and C.N.T.U. units will clash, all cases will be appealed. The so-called final, and conclusive decision will be made by a body of people not necessarily experienced in labour-management relations.

This purely political gesture to appease the C.N.T.U., rather than a change which would remedy any defect in our labour system, is abhorrent to us (CUPE).

AMENDMENTS UNTIMELY

Since the appointment by the Prime Minister of Canada of the Task Force, which is engaged in a thorough examination of our industrial relations, it was generally expected that no major changes would be made in federal labour laws.

It is certainly not unreasonable to wait until the Task Force had made its report before seeking a partial amendment of the Industrial Relations and Disputes Investigation Act.

However, Bill C-186 is now interpreted plainly and openly as an expression of political partizanship and as a concession to the C.N.T.U. In making this statement we wish to support it by certain evidence. In an application for certification of bargaining agent affecting our CUPE and the C.B.C. group of production employees, the C.N.T.U. affiliate called Syndicat Général du Cinéma et de la Télévision (C.S.N.), sent a letter February 5, 1968 to the Canada Labour Relations Board, ten weeks after the application had been made, completely ignoring provisions of the Act regarding proceedings before the Canada Relations Board. The letter states that

1. the C.L.R.B. should not process the application before the Parliament passes Bill C-186 which changes the structure of the Board and a definition of units appropriate for collective bargaining;

2. it should be more decent that the hearings connected with the application would not be chaired by Mr. A. H. Brown whose decisions in the C.B.C. cases indicated that his mind is already made up and that these hearings should be presided over by somebody whose objectivity is not in doubt (English translation).

According to our opinion, no lengthy comments are needed regarding the usual complaint of the C.N.T.U. advocates that the C.N.T.U. "are badly treated or misunderstood by the Canada Labour Relations Board". The C.N.T.U. organizers simply do not bother with the existing laws which offer them a fair opportunity to obtain bargaining rights. (This situation is well documented by the Quebec Federation of Labour in the statistical datas which they produced and, which no doubt, are in the hands of this Honourable Committee.*)

The C.N.T.U. organizers rely on proposed partizan laws which would give them the right to monopolize the Labour Relations Board when they want it.

* Between January 1966 and December 1967 the C.N.T.U. submitted 29 applications for certifications out of which 18 were granted, 8 rejected and 3 withdrawn by the applicant. On top of that during the period of 9 months when the C.N.T.U. delegate, Mr. Gérard Picard boycotted meetings of the Canada Labour Relations Board, out of 11 applications submitted by the C.N.T.U. 6 were granted, 3 were rejected and 2 were withdrawn. In 3 of these cases the C.N.T.U. defeated the CLC affiliates in spite of the absence of Mr. Picard caused by his boycotting of the C.L.R.B.

CONCLUSION

In conclusion, we wish to say again that we are strongly in opposition to the proposed changes in federal labour legislation, particularly with regard to the section which would establish an Appeal Board (Section 61A) and a section which would bind the Board to fragment national bargaining units (Section 9 Sub-4a).

Passage of the Bill C-186 will seriously endanger the public interest. We are convinced that there are better ways and means how to promote collective bargaining, indus-

trial peace and freedom of association in Canada than Bill C-186.

S. A. Little
National President

CANADIAN UNION OF PUBLIC EMPLOYEES

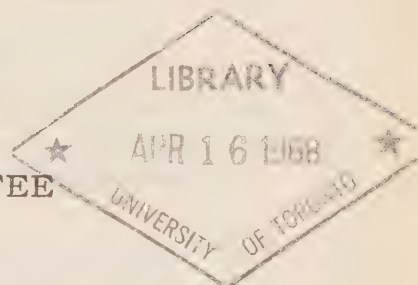
Grace Hartman
National Secretary-Treasurer

CANADIAN UNION OF PUBLIC EMPLOYEES.

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HOUSE OF COMMONS
Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE
ON



Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 11

RESPECTING
Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act.

THURSDAY, MARCH 7, 1968

WITNESSES:

From the International Association of Machinist and Aerospace Workers (I.A.M.): Mr. Mike Rygus, General Vice-President, also Vice-President, Canadian Labour Congress (CLC); Mr. Jean Joly, Grand Lodge Representative and I.A.M. Co-Ordinator for Quebec.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

¹ Mr. Allmand,	Mr. Leboe,	Mr. Nielsen,
Mr. Barnett,	Mr. Lewis,	Mr. Ormiston,
Mr. Boulanger,	Mr. MacEwan,	Mr. Racine,
Mr. Clermont,	Mr. McCleave,	Mr. Régimbal,
Mr. Duquet,	Mr. McKinley,	Mr. Reid,
Mr. Gray,	Mr. Muir (<i>Cape Breton</i>	Mr. Ricard,
Mr. Guay,	<i>North and Victoria</i>),	Mr. Stafford—24.
Mr. Hymmen,	Mr. Munro,	

Michael A. Measures,
Clerk of the Committee.

¹ Replaced Mr. McNulty on March 5, 1968.

ORDER OF REFERENCE

TUESDAY, March 5, 1968.

Ordered,—That the name of Mr. Allmand be substituted for that of Mr. McNulty, on the Standing Committee on Labour and Employment.

Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

MINUTES OF PROCEEDINGS

THURSDAY, March 7, 1968.

(19)

The Standing Committee on Labour and Employment met this day at 11.07 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Lewis, MacEwan, McCleave, Munro, Ormiston, Régimbal—(13).

Also present: The Honourable Bryce Mackasey, M.P.

In attendance: From the International Association of Machinists and Aerospace Workers (I.A.M.): Mr. Mike Rygus, General Vice-President, also Vice-President, Canadian Labour Congress (CLC); Mr. Harold Thayer, Grand Lodge Representative: Mr. Earl McNamers, Grand Lodge Representative: Mr. Adrien Villeneuve, Grand Lodge Representative: Mr. Jean Joly, Grand Lodge Representative and I.A.M. Co-Ordinator for Quebec: Mr. William Cameron, President, District Lodge No. 2 and General Chairman, C.N.R.: Mr. Val Bourgeois, Chairman, C.N.R., Atlantic Region.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

On motion of Mr. Gray, seconded by Mr. Lewis,

Resolved,—That the list of representatives associated with those in attendance be printed as part of today's Proceedings. (See Appendices XIV and XV in this Issue.)

The Chairman introduced those in attendance.

Following a suggestion by Mr. Gray that a documented representation made to the Cabinet by the Teamsters Joint Council 36, Vancouver, be made part of the Committee's records, it was agreed that this possibility would be considered at the next meeting of the Subcommittee on Agenda and Procedure.

Mr. Rygus gave an oral summary of the three briefs filed by I.A.M., I.A.M.'s District Lodge No. 2, and the Special Committee of the CLC of Transportation Unions other than railroad, copies of which had been distributed to the members. (The briefs are printed as Appendices XVI, XVII, and XVIII in this Issue.)

Mr. Rygus was questioned, assisted by Mr. Joly.

The questioning having been completed, the Chairman thanked those in attendance.

At 1.05 p.m., the Committee adjourned to Tuesday, March 12, at 11.00 a.m.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, March 7, 1968.

• 1110

The Chairman: Gentlemen, I see a quorum. We have with us today quite a large delegation from the International Association of Machinists and Aerospace Workers. I would draw the Committee's attention to the fact that although we have some of the representatives with us as witnesses, we have in the audience quite a wide-ranging selection from across the country; and in so far as they represent different regions of the country, they are here as representatives of these regions.

I have their names and if it is the wish of the Committee I think they should be recorded. Rather than go through the whole list, with your permission, I will just have these gentlemen's names . . .

Mr. Gray: I so move, Mr. Chairman. I think it is very important to note the breadth and extent of the representation here today.

The Chairman: The motion is to have these names tabled as part of the proceedings.

Mr. Gray: I so move.

Mr. Lewis: I second the motion.

The Chairman: All those in favour? Motion agreed to.

To present the briefs and answer the questions we have with us these witnesses whom I will introduce to the Committee in the order in which they are seated here. Next to me is Mr. Harold Thayer, whom I think some of you have had a chance to meet. He has attended several of these hearings. He is a Grand Lodge Representative. Next to Mr. Thayer is Mr. Mike Rygus, who is the General Vice President and who will be presenting or summarizing the briefs. Then we have Mr. Joly, who is the Grand Lodge Representative and I.A.M. Co-Ordinator for Quebec. Then we have Mr. Earl McNamers, Grand Lodge Representative. Then around the corner, Mr. William Cameron, President, District Lodge No. 2 and General Chairman, C.N.R.

Because we do not have more room, over at the side we have Mr. Adrien Villeneuve, who is a Grand Lodge Representative and next to Mr. Villeneuve, we have Mr. Val Bourgeois who is from Moncton and Chairman of the Atlantic Region, C.N.R.

Gentlemen, we welcome you here.

Mr. Gray.

Mr. Gray: Mr. Chairman, I am sorry to interrupt your welcome in which I am sure we all join. This is a very important group and before hearing from them I wonder if I could deal very briefly with another matter.

At our last meeting, when Bryce Mackasey was questioning Donald MacDonald, President of the CLC, Mr. MacDonald presented to the Committee a letter which had been sent either to Mr. Mackasey or to the Minister of Labour—I do not know which exactly . . .

Mr. Lewis: It was tabled.

Mr. Gray: I did not notice it on my desk yet. I do not know if the copies were distributed. I am not complaining about that.

Mr. Lewis: No, no. I am just saying that it was tabled. As I remember it was a letter to the Minister of Labour.

Mr. Gray: Yes, that is right, in which Mr. Greene, I believe, took issue with remarks to the Minister at a Committee meeting about support of the Teamsters for the type of changes contemplated by Bill C-186. Mr. Mackasey has asked me to bring to the attention of the Committee that Teamsters Joint Council No. 36 of Vancouver, British Columbia, did in fact make a presentation to the Cabinet Committee and it was considering possible changes in the Industrial Relations and Disputes Investigation Act in which they would appear to have expressed support for the type of changes which have now come forward in this Bill.

I mention this to present a more complete picture and I have a copy of their submission here which apparently was presented to the Cabinet by S. Brown, Research Director, Teamsters Joint Council No. 36, of Vancouver, British Columbia. I would ask that this presentation be tabled and submitted to the members of the Committee and made part of our record in the same way as Mr. Greene's letter.

The Chairman: Does it contain references to Bill C-186?

Mr. Gray: Well, it could not because the presentation was made to the Cabinet Committee that was considering whether or not to make changes in the existing Act—a Committee which I presume made recommendations which led to this Bill which is before us.

Mr. Lewis: Mr. Gray is presuming. I do not know whether there were discussions before the Bill was presented.

I am not at all surprised that the Western Joint Council of the Teamsters should express support; they may well support this Bill. They tried to get a unit for the merchandising service. I am not objecting to filing this. I am not interested in hiding anything but this seems to me really improper. If the Western Joint Council of the Teamsters want anything to be before this Committee, they are in Canada and they can send it direct instead of doing it through one of the members of the Committee, presenting a brief that was given to a Cabinet Committee prior to this Bill. If Mr. Gray wants them to declare themselves on this Bill, they can do that more directly.

The Chairman: If the Committee wishes we can table it, but my own feeling would be that unless it really did contain specific references on Bill C-186...

Mr. Gray: The document contains specific references to the presently existing Industrial Relations and Disputes Investigation Act. I do not want to attempt to summarize the document in a way with which others may not agree, but it would appear from reading it that they express views which could be summarized as saying they would like to see changes in the Act which are similar to those contemplated by Bill C-186, that came forward later.

Mr. Régimbal: Have we had any communication with the Teamsters asking them to appear?

The Chairman: No.

Mr. Gray: No, I think Mr. Lewis actually has expressed himself in a way not dissimilar to the way I brought this to the attention of the Committee. I am not suggesting, in fact, it would not be correct to say the Teamsters Joint Council No. 36 of Vancouver contacted me and asked me to present this document. I think I attempted to make clear that I was asked by our colleague, Bruce Mackasey, to bring this document to the attention of the Committee to help to provide a more balanced picture of what would appear to be views of the Teamsters union.

Mr. Barnett: Mr. Chairman, it would seem to me. If Mr. Mackasey, wishes to bring a communication to the attention of the Committee members he is quite free to send us a copy of it and under the circumstances—I am not saying that the point is not relevant to the other matter that was raised in the Committee—that the most appropriate suggestion we could make would be to ask Mr. Gray to suggest to Mr. Mackasey, if he wants the members of the Committee to be acquainted with the contents of this document, that he send us a copy of it and we certainly will have a look at it. This would avoid any complications on the procedural question as to whether it is a representation on this Bill.

The Chairman: I do not want to cut off anyone's contribution, but I think we should...

Mr. McCleave: May I suggest that we let the Steering Committee deal with it so that we will not keep these gentlemen waiting.

The Chairman: If it is the feeling of the meeting—Mr. Gray did not make any motion, he made a suggestion—that this should go to the Steering Committee, we could do it that way. Is that acceptable to you, Mr. Gray?

Mr. Gray: That is fine. I wanted to draw the existence of this document to the attention of the Committee. My own suggestion is that it be tabled, be distributed and made part of our record...

The Chairman: All right.

Mr. Gray: ...but I can see the existence of other points of view.

The Chairman: Yes. Mr. Émard, you wanted to say something?

[Translation]

Mr. Émard: Yes. What interests us at the present time, is not so much whether the

requests that were made by this particular local of the Teamsters are taken into account, but whether this might be done by way of retaliation to the letter presented by MacDonald the other day, which said that the Teamsters...

Mr. Gray: All the Teamsters.

Mr. Émard: All the Teamsters were completely in favour of the bill as presented and were opposed to any change in Bill C-186. So, I do not think that what is of primary interest to us is whether this bill will be presented but whether the remark that all Teamsters were not in agreement will remain on the record.

Mr. Lewis: Mr. MacDonald did not say that all Teamsters were in agreement. He said that he had in his possession a letter from the eastern Council of the Teamsters. Vancouver is in the West, and of course, the Teamsters from the West are for the Bill and Teamsters in the East are against it.

Mr. Émard: I had the impression when the letter was filed that all the Teamsters in Canada were against the Bill.

[English]

Mr. Lewis: No, No. He did not give that impression.

The Chairman: If Mr. Gray is agreeable, in order to expedite things we will consider the letter at the next meeting of the Steering Committee.

I will call upon Mr. Rygus to make a summary of the presentation and then we will have questions.

Mr. Mike Rygus (General Vice-President, I.A.M. and Vice-President, Canadian Labour Congress): Mr. Chairman, members of the Committee, ladies and gentlemen.

I am appearing today as spokesman for three briefs, one of them from the Canadian region of our international union, another one from the District Lodge No. 2 of our union which covers 4,700 railway members who have a very vital interest in the issues in this Bill and the third brief represents the thinking of a group of CLC affiliate unions in the transportation field, other than the railways.

The I.A.M. appears before this Committee on this Bill for several reasons. First of all, we have over 51,000 members in Canada in every province of this country. We have been in Canada as a union for 78 years. Our union

has over 12,000 members who work in industries that come under the IRDI Act. For example, 4,700 of these work on the railways, over 7,000 work on the airlines, we have a couple of agreements with the Atomic Energy Commission, one at Hudson Bay Mining and Smelting in Flin Flon, and so on.

Other unions represented here have similar interests. We are deeply concerned about the adverse effects of Bill C-186 on the Canadian workers if it becomes law, not only in the federal jurisdiction, but also because of a trend this law could have on provincial acts. The Federal Government should, in our opinion, set the example and lead the way in the legislative field.

Our union, as well as other unions represented here, are strongly opposed to Bill C-186 for several reasons. We have studied several briefs and the Minutes of Proceedings and Evidence before this Committee, in particular the proceedings of the CNTU hearing, and our concern is further reinforced after studying these briefs.

As we see it, the purpose of the Industrial Relations and Disputes Investigation Act is manifold. First of all, it is to provide the machinery for the orderly and prompt certification of unions, for good faith and effective collective bargaining and prompt and equitable settlement of disputes. It should also promote industrial peace.

We contend that Bill C-186 will not advance or further these desirable objectives of the IRDI Act. In fact, we are concerned that this Bill is a seriously retrogressive step in industrial relations legislation in the federal field. We have analyzed this Bill and we have asked ourselves what is the purpose of Bill C-186.

As we see it, first, it is to permit easier fragmentation of national or system-wide bargaining units. Clause 1 states in clear and positive language that national bargaining units can be fragmented. In our view it is an implied directive to the Board. Clause 3 permits the Board to sit in divisions. There is concern—I am not making any implied allegations or inferences—that this provision could make it easier to achieve the break-up of national bargaining units by restructuring the Board in terms of setting up three-member panels.

Clause 5 sets up an appeal procedure to provide an additional step by which national bargaining units can be broken up. In our

view some bargaining units must be on a national or system-wide basis in scope. A company that operates on a national or a multi-location basis whose operations are integrated, that is, each location depends upon the operation of other locations, can only be certified on a national or a system-wide basis. It would be sheer chaos to do otherwise. The history of certifications and bargaining on the railroads and airlines in Canada are two glaring examples of this.

As a comparison we can also draw some parallel of existing practices in the United States. The trend of corporations in industry these days is toward bigness, expansion, consolidation, integration of operations in multi-location units due to new technology. Therefore, the mobility of workers becomes an increasingly important factor. Bargaining should not run counter to this trend. It appears to us that Bill C-186 is directed more to political considerations and appeasement of CNTU pressures than with sound industrial relations principles.

Statements made by the Minister of Labour on page 13, Volume 2 of the Proceedings.

...to give the CNTU a fair or even break...

• 1125

In our judgment the CNTU claim of unfairness is wholly imaginary and is not based on sound justification or proven facts. There are considerable references to increasing rivalries between the CNTU and the CLC affiliates. We respectfully submit that these rivalries are the product of CNTU's policy of indiscriminate raiding. CLC affiliates have succeeded in minimizing raiding almost completely among each other since the CLC merger in 1956. The CNTU wants to expand its membership by no "holds" barred raidings and then it hollers about increased conflict among unions. In our view the government should not be advocating amendments to the IRDI Act that would assist the CNTU in its raiding activities.

Let us look at some of the main clauses of the Bill. Specifically, we can see no need at all for Clause 1. The Board already has the necessary authority to determine the appropriateness of bargaining units on a local, regional or national basis. Records show that the decisions of the Board on this matter have been sound and fair over the years. We do not agree with the CNTU's claim that it does not have a fair representation on the Board. Considering the size of CNTU membership as compared with CLC affiliates,

which is a ratio of approximately six to one, we ask ourselves, "Where is the inequity"?

We can see no reason for the Board sitting in panels or divisions as set out in clause 3. The volume of work simply does not justify it.

We strongly object to the appeals procedure as set out in clause 5. Delays in certification will be the inevitable result. "Justice delayed is justice denied", as has often been said. Delays are always harmful in an organizing campaign.

We then ask ourselves, why is this bill introduced at this time? What priority does it have? We are not aware of any critical or urgent problems which require changes in the IRDI Act in those areas covered by Bill No. C-186.

There are other areas that require major changes much more urgently. For example, the conciliation machinery of the Act is not functioning effectively. There are many instances of long delays which cause frustration and ultimately result in strikes.

Another area commonly called the residual rights of management doctrine that exists in industrial relations in Canada creates serious problems when changes, either technological changes or other changes, are introduced during the term of an agreement. The Freedman Report would go a long way towards resolving these problems. Yet that report has been quietly shelved by the government and they are proceeding with this Bill. We ask ourselves why?

It is quite obvious that Bill No. C-186 has aroused widespread protests from the vast majority of the trade unions in Canada. It has created much unrest amongst the CLC affiliated members including those in Quebec, which are still the majority of the membership in that province. Even some employer organizations, who will be affected by this law, have expressed strong opposition to it.

Who is in favour of this Bill? As we see it, in the main it is only the CNTU. There is some question or misunderstanding about which segment of the Teamsters may or may not be in favour of it, but we are still talking about a relatively small group when you think in terms of the total labour movement in Canada.

• 1130

The CNTU is not opposed to system-wide bargaining units in Quebec, for example, in

Quebec-Hydro or in the Civil Service. Why does it advocate double standards in the federal field? The CNTU brief states repeatedly that Quebec follows a different principle when it comes to federal industrial relations laws. It speaks of natural bargaining units. In our view bargaining units should be based on economic units and not on a linguistic or cultural basis. We want to elaborate later on the Angus Shops case and the CBC case. We do not pretend to know the complete history and the background of the CBC case. I think that has been amply covered by others who are much more familiar in that field, but we certainly are in a position to discuss the Angus Shops case very thoroughly. We were one of the unions who were affected by that application. I think it would be very interesting for the Committee to know much more about it.

Briefly this sets forth our views. Our briefs elaborate much more considerably on these items. We have people here from our union who are in the air lines field primarily and railways also. There are people here from other unions who are very much concerned about the effects of this Bill and we are prepared to answer questions for as long as is necessary to convince you of our views. Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Rygus. Well, gentlemen, you have heard the summary; you have read the briefs. Are there any questions?

Mr. Ormiston: Mr. Lewis and Mr. Barnett have a funeral to attend. I do not know if...

Mr. Lewis: We do not have to leave until about 12.30.

The Chairman: Fine. Mr. Ormiston?

Mr. Ormiston: Mr. Rygus, you certainly applied yourselves to the discussion of the Bill in question. You did mention that you thought possibly there were other fields in which amendments were needed more than in the restricted field which is being mentioned in this case. Would you mind telling me just what improvements you think could be made in the conciliation machinery which you mentioned a moment ago? Or is that going too far afield?

Mr. Rygus: We do not mind elaborating on that one.

Mr. Ormiston: Just briefly though, you did mention it.

Mr. Rygus: All right fine. Our experience with that facet of the IRDI Act has been that it is almost a totally useless function of the Act. It certainly is not working. I can cite you a number of cases where the delays have gone on for months and months and months. There are time limits set out in the Act and yet it appears to us that very little attention is paid to the time limits.

We know of quite a number of cases where we just practically blew our tops when we found out about the continuously extended time limits. We were never consulted; we did not know the reasons. And after all these protracted months of delays we finally found ourselves with either strikes or near strikes because of the frustrations that developed.

If the Committee wants to check one of these glaring examples I can think back to the fall of 1966, to the Consolidated Aviation Fueling and Services, Ltd. case in Montreal. My recollection is that the Board sat about some 20-odd sessions after the hearings were completed. When the Board report came out we, respectfully, found it of no use and no advantage to us whatsoever. Unfortunately it resulted in a strike for several days and that was the only way we settled the dispute.

A more recent case was the Canadian Pacific Airlines. There just seemed to be no end to delays there. I finally got hold of the people in the Department of Labour and I said, "Look, unless this thing comes to some reasonable halt soon we are just going to have a wildcat strike. And there is a time limit to patience of all people". We finally got the Board report which was very little help to us in any case. This was one of those cases which we successfully settled in the eleventh hour prior to the strike date. However, we run into no end of instances where the delays and frustrations of that machinery are so cumbersome they just complicate the negotiating process. That is one field that certainly needs urgent and prompt attention and yet somehow it gets completely brushed off while another field gets very critical and urgent attention.

Mr. Ormiston: Mr. Rygus, you mentioned some aspects of the Freedman Report. Now, those of us who were interested at the time of the CNR runthroughs which resulted in the Freedman Report certainly are interested in hearing what aspects of the Freedman Report could apply in this instance.

The Chairman: I do not want to pre-empt the work of the Woods Task Force but perhaps we might speed it up by...

Mr. Lewis: We do not want to pre-empt it entirely.

The Chairman: Entirely? Go ahead; I mean we are...

Mr. MacEwan: Outside of this Bill.

Mr. Lewis: That is what I meant; outside of this Bill you do not want to pre-empt it.

The Chairman: Can we go ahead?

Mr. Rygus: Do you want me to pass comment on the Freedman Report outside of the provisions of this Bill? Is that the understanding?

Mr. Ormiston: No. What aspects of the Freedman Report could you apply in this instance in so far as Bill C-186 is concerned?

Mr. Rygus: I see no similarity whatsoever. Our concern is that the principles of the Freedman Report were so urgent and so necessary in our view and yet again that one gets the treatment on the shelf while these provisions get top priority consideration. We just made that reference in passing. In fact we make comparisons of why the priorities and the relative urgency of issues under the IRDI Act as a whole. If we get an opportunity to testify under the Task Force we will be glad to submit our views on the Freedman Report and many others.

The Chairman: For the sake of clarification, is it the position of your group, Mr. Rygus, that reference to the Woods Task Force is tantamount to shelving the issue because that is where the Freedman Report recommendations are at the present time?

Mr. Rygus: Well...

The Chairman: You said we have shelved them. I take it that is not your position on the whole...

Mr. Rygus: The Freedman Report was out a considerable time before the Task Force was appointed and there was a great deal of discussion and concern immediately on the publication of the Freedman Report and yet nothing was done about it. It appears to us that it becomes a pretty convenient thing to say nothing can be done until the Task Force completes it. Yet considerable time has passed since the Freedman Report was published.

The Chairman: I do not want to get too far afield but perhaps I could ask you this question. Would it not be fair to say that collective agreements negotiated since the Freedman Report in some instances and certainly in the railway industry have, in fact, embraced—perhaps not to your satisfaction—some of the provisions and recommendations of the Freedman Report?

Mr. Rygus: Well, they have embraced them in a very limited way but from our standpoint it is still a very unsatisfactory way.

The Chairman: Well, I do not want to get too far afield. We are really off the Bill. Mr. Ormiston?

Mr. Ormiston: Mr. Chairman, obviously that concludes my questioning.

The Chairman: I do not know what has happened to the Committee. They seem to be very docile this morning or perhaps you have been very persuasive. I have Mr. MacEwan and then Mr. Clermont.

Mr. MacEwan: Mr. Rygus mentioned the matter of the Angus Shops in summing up. He said he had some additional things he might bring before the Committee. I wonder whether he could just amplify that? I realize this brief by the IAM places considerable emphasis on this matter but perhaps there is something additional you would like to mention. This is something that always comes up in Committee meetings and I would like you to go into the matter a little more fully.

Mr. Rygus: I suggest that those of you who are really interested in the Angus Shops case get a copy of the proceedings before the Board. It is a little lengthy; it is more than 200 pages, but certainly it will give you a clear and complete insight into what happened in that particular case.

It concerns us to the extent that one of the great cries of the CNTU in supporting this Bill was that they received unjust treatment in the Angus Shops case. Well, let me say very humbly and very frankly that I attended those hearings before the Board and honestly, with all due respect, I have never seen a union present a weaker, more pitiful case than did the CNTU in that case. They just could not find any basis or reasons or justification for their application at all.

They went through a pretty nice waltzing session the first day when they put people on the stand, but when it got down to the real

substance and the real reasons for claiming that this ought to be an appropriate bargaining unit, I have never seen counsel for the applicants so helpless and so defenceless in trying to make a case. All you need to do to see whether you agree with my statements is to read the entire proceedings.

In addition to that, in the voluminous documents that the CNTU filed with the Board prior to the hearing, they made great ado about inadequacies of the international unions to represent these French-speaking members because they did not have the facilities to represent them in that language. Well, counsel for the interveners—our union was one of the intervening unions—submitted overwhelming evidence that there was absolutely no substance to the CNTU allegations. Much to my amazement CNTU did not submit one shred of evidence in that case to support their application—not one shred of evidence, and yet that was supposed to be one of the major dominant reasons for justifying their application.

We have heard a great deal about it ever since. Yet, when they had their opportunity to state their case before the Board, they would not even make mention of it. The various unions were able to testify before the Board that their staff in Quebec was bilingual, that the local people were bilingual, at various levels of our presentation. This shot their allegations completely into flames.

Second, and again this is one of the critical issues before this Committee and in this Bill there is the appropriateness of the bargaining unit. One of the key arguments was whether the Angus Shops is part of an integrated operation of CPR throughout all of Canada. The evidence was overwhelming and conclusive beyond any question that it was which left the CNTU completely without any basis for argument or claim that it was not.

Yet, we still hear today time and time and time again that one of the justifications for Bill C-186 is the injustice the CNTU received in the Angus Shops case. That is why we say the CNTU just have not had a documentary case that I have heard of where they have not received fair treatment before that Board. We could go a long way into many details but I just want to set out the key highlights of that case.

Mr. Lewis: May I ask a supplementary on this? Does Mr. Rygus have the judgment of the Board here—the two judgments? If so, could he tell us what names of members of

the Board are given in that judgment as having made the decision?

Mr. Rygus: This is in the District Lodge No. 2 brief on page 8.

The bottom paragraph of page 8 reads:

Only after thorough investigation and lengthy hearings did the CLRB throw out the application of the CNTU. It should be noted that the Board consisted of Chairman A. A. Brown, Messrs. A. H. Balch, E. R. Complin, A. J. Hills and G. Picard.

Mr. Lewis: Correct me if I am wrong. The other members of the Committee may not be as familiar with the names. Mr. Arthur Brown chairman of the Board.

Mr. Rygus: That is right.

Mr. Lewis: Mr. Balch, the operating railway union nominee. Mr. Complin is an employer nominee. Right?

Mr. Rygus: Right.

Mr. Lewis: Mr. Hills is an employer nominee and Mr. Picard is the CNTU nominee.

Mr. Rygus: That is right.

Mr. Lewis: So that of the two labour men who made the decision against the CNTU application, one was the railway union nominee and the other was a CNTU nominee. One to one.

Mr. Rygus: We should add that the decision of the Board was unanimous in any case.

[Translation]

Mr. Clermont: Mr. Chairman, according to the bill now under consideration by the Committee, Bill No. C-186, Canada Labour Relations Board would be called upon to make a decision concerning the splitting up of national units, correct me if I am wrong, only if a national or regional majority were to request such a subdivision.

The gentleman mentioned in his remarks that the CNTU is opposed to the splitting up of bargaining units. According to certain criticisms which have been drawn to my attention, workers in the province of Quebec maintain that even if the majority of the members of their organization were to vote in favour of a subdivision, other workers in other provinces would reverse their decision. That is why the Canada Labour Relations Board does not accept the subdivision of bargaining units.

This is my question, Mr. Chairman: in your opinion, is it more important to seek national

unity than to give each worker the right to choose his own organization, which represents him?

[English]

Mr. Rygus: I cannot see how we could deal with these two questions completely in isolation. When we talk about national bargaining units—let me draw a comparison to you—it means really the same thing as a system bargaining unit in a company that operates in a more confined area than a national company. It also means the same thing as Quebec Hydro operating within the province of Quebec. The principle is the same. It is a question of whether the bargaining unit is going to encompass the total operation of that company, be it regional or be it national. We are talking about the principle of the total operation being the bargaining unit.

Let me just elaborate. It is strange to us that we do not hear the CNTU say that the workers in the Northwestern region of Quebec ought to have a voice, a separate voice, a separate choice, in determining which union should represent those workers of Quebec Hydro. They say that the total unit of Quebec Hydro should be the determining factor as to which union represents those workers. Yet somehow they use the same argument on civil service. They do not say that the civil service people in Hull, Quebec, should have the complete choice of which union shall represent those workers. They claim that the total province of Quebec ought to be the determining factor as to which union represents all of those workers. So we are really talking about the same issue; whether it is a total operation, a government operation, a corporate operation, or a fragment or portion of that operation that ought to be the determining factor.

• 1150

In our opinion the overriding criterion needs to be whether the total operation is an integrated operation, for each locality or each unit is interdependent upon the operation of another. That has to be given maximum consideration, because if you splinter up an operation into what you might call nonviable units, or units that are completely at the mercy of operations at other locations, you really do not have a meaningful bargaining unit. When we try to mix or intermix these two issues, I think we begin to lose sight of what is practical and meaningful versus the theory of the workers, having the right to choose.

Let me elaborate a little longer, just in case I have not completely explained my point. Let me use an example of Air Canada, which is a national air line operation. If we were to assume that our people in Ottawa could get a separate certification and bargain separately, can anybody imagine how useful or meaningful their bargaining strength would be here? It would amount to practically nothing. You can say much the same in many other localities and you can go even further.

Let us assume that Toronto had a separate operation, or a separate bargaining unit and a separate contract and they went out on strike. Would they really have a potency in bargaining in the way they would on a national scale?

Then you run into other problems. In a national employer of this kind there are many occasions which, because of change in operations, enlargement of operations in one location, and retrenchment of operations in another location, affect the job rights, the mobility of workers; and if you were to fragmentize these units into localities or into regions, you would seriously limit the right of these workers to use seniority to move to other locations with the jobs.

So there are many facets to these things. What sounds like a very admirable theory of the choice and the right of workers does not really amount to very much when you translate it into the practical facts of life.

[Translation]

Mr. Clermont: Mr. Chairman, in his remarks this morning, the delegates' representative objected to the creation of an appeal section. His reason, I think, was that an appeal section would delay considerably the certification of unions. Do you have other reasons for objecting to this clause providing for the creation of an appeal section?

[English]

Mr. Rygus: First of all, let me say very firmly and unequivocally that this would be the first instance where any labour relations act, to my knowledge on this continent, would permit an appeal procedure. There are very limited areas—and those in the legal profession could question or elaborate on this point—even in points of law, in which boards' decisions can be appealed. But there is a clear-cut stipulation in every labour relations act that the decisions of the boards are not subject to review or appeal, and for very good reasons. I honestly do not know what criteria an appeal board could use

other than those used by the Labour Relations Board. If it did, you would have two groups going in completely opposite directions. How could the Canada Labour Relations Board function effectively if they did not know from day to day whether new, different criteria would be utilized to reverse their decisions? I think we would find ourselves potentially in total chaos, depending upon what views the Appeal Board have. The Appeal Board could use an entirely different outlook—entirely different approach—different roles or criteria in passing judgment on decisions of the Canada Labour Relations Board.

• 1155

[Translation]

Mr. Clermont: In his remarks, Mr. Chairman, the witness mentioned that representation of the CNTU on the Canada Labour Relations Board was appropriate in view of the fact that they represent one worker out of six organized workers in Canada. However, all the CNTU representatives who came before this Committee claimed that the deck was stacked against them. This question was asked on several occasions. It regards to the procedure that exists in the Province of Quebec. When there is a tie vote on an application for certification, it is the chairman of the Board who renders the final decision. The Board members sit as advisers, and the chairman is the one who has the final decision. I would appreciate having the comments of the representatives of those who are before us today, with regard to the procedure which exists in the Province of Quebec as to certification of bargaining units?

[English]

Mr. Rygus: I have a general knowledge of what goes on in the Province of Quebec, but since we have somebody who deals with these problems much more frequently than I do, I am going to pass it over to our co-ordinator in the Province of Quebec—our Staff Representative—who can perhaps deal with the intricacies much more thoroughly. He has appeared before the Board on more occasions than I have and will have better knowledge of it than I would.

The Chairman: That is Mr. Joly?

Mr. Rygus: That is right.

[Translation]

Mr. Joly: In Quebec, when we go before the Quebec Labour Relations Board, the

Chairman does not necessarily have the final word to say. The Quebec Labour Relations Board can divide into various panels or benches and sit either in Quebec or elsewhere. The Chairman of the Board delegates a vice-chairman and equal numbers of representatives from employers and employees to hear the case.

• 1157

Mr. Clermont: Mr. Joly, if there is a dispute between two unions, is it not then the Chairman who in the final analysis has the final decision?

Mr. Joly: If the parties are represented equally on the bench, perhaps the Chairman would have the final word to say since he would have to decide in the case of a tie vote. However, he does not necessarily have the only vote.

Mr. Clermont: It has been said before this committee that, in certain cases, the chairman and the commissioners, I think, are all judges.

Mr. Joly: Not all of them.

Mr. Clermont: Are the commissioners judges?

Mr. Joly: The commissioners are not all judges.

Mr. Clermont: No, but the vice-chairmen are.

Mr. Joly: I think the vice-chairmen are.

Mr. Clermont: We have been told that, in certain cases...

Mr. Lewis: They become judges. When a vice-chairman is appointed, he becomes a judge.

Mr. Clermont: Then that means...

Mr. Lewis: That he does not necessarily become a judge before his appointment.

Mr. Clermont: That means, Mr. Lewis, that the chairman and the vice-chairman are judges. If they become judges as soon as they are appointed, then...

Mr. Énard: I am not a lawyer but, with regard to the province of Quebec, I think that Mr. Lewis is more aware of the situation than I. In Quebec, when there is a dispute concerning certification between two unions, the judge makes the decision alone, right?

[English]

Mr. Lewis: I am looking into it.

[Translation]

Mr. Gray: Mr. Chairman, I have a copy of the Labour Code of the province of Quebec in my office, which is just next door. I can go and get it.

Mr. Clermont: No, I do not think that is necessary.

Mr. Gray: We have put the same questions to other witnesses recently, and I think they agreed with me that when there are inter-union disputes in the province of Quebec, not only concerning certification or the appropriate units, the members representing the employees and those representing the employers listen to the evidence, discuss it and come to a decision with the chairman. However, only the chairman makes the ruling; the other members do not vote. Mr. Clermont had perhaps...

Mr. Clermont: That was the object of my question, Mr. Chairman. What do the representatives of the association now before us think of such a formula?

[English]

Mr. Rygus: Mr. Chairman, I am not trying to discredit what is going on in the Province of Quebec. If that suits the practices and works satisfactorily in Quebec, then that is their problem. But, frankly we can see no need for that change here.

I just do not see the advantage because I am familiar with the operation of labour relations acts in many other provinces of this country and they do not have that provision. They seem to be able to cope with those problems.

I do not see the justification of having two people sit there and hear the case and then be denied the right and the opportunity to vote on the merits of the case.

[Translation]

Mr. Clermont: No. You say, sir, that you do not see the utility of such a thing. If you were in the same situation as the CNTU, you would perhaps think the way they do. That is why I am asking this question.

[English]

Mr. Rygus: It is not a question of who feels how about something, it is a question of whether there are real merits. I do not believe there are really any real merits to the suggested change.

[Translation]

Mr. Émard: Mr. Chairman, I would like to add that before the amalgamation of the C.I.O. and the A.F.L., if Mr. Rygus remembers, there was much discussion within the Canada Labour Relations Board concerning inter-unions disputes. Not only within the Canada Labour Relations Board, but also within the Canadian Labour Congress.

Now, because the CNTU is alone does not belong to A.F.L.-C.I.O., it also finds itself in a different situation, and you should perhaps understand that if your union were in that situation, you would not, perhaps, be too satisfied with the decisions made when you are in the minority.

[English]

Mr. Rygus: Mr. Chairman, it is not fair to say that the CNTU is the only union not affiliated with the CLC. There are many others, there are many kinds of independent groups; the Teamsters are not affiliated.

[Translation]

Mr. Émard: We are speaking of the province of Quebec.

[English]

Mr. Rygus: We are dealing with Canada, and not only—with all due respect—with Quebec. The Teamsters in Quebec are not affiliated. District 50 of the United Mine Workers, including the Province of Quebec, is not affiliated. It might amaze some of you to know how many members there are in independent unaffiliated unions in this country. We are talking about unaffiliated groups and we are talking about minority groups, when we ought to be talking about all of them. Yet we do not hear the same protests from the other so-called minority groups as we do from the CNTU. It is not a question of being in the minority—there are times when the majority think they have not received a fair deal—but it is a question of the merits of the case, rather than the complaints, about a particular point.

[Translation]

Mr. Clermont: Here is my last question, Mr. Chairman. It has been said, sir, that the Canada Labour Relations Board is very slow in handing down decisions and, in my opinion, this is a matter calling for changes and amendments. What would you say is the reason for this delay in handing down decisions?

[English]

Mr. Rygus: If you are referring to the reconciliation procedures, that is correct.

[Translation]

Mr. Clermont: Is it not the committee...

[English]

Mr. Rygus: The conciliation procedures are under the Minister of Labour, not under the Canada Labour Relations Board.

[Translation]

Mr. Clermont: Very well. Thank you very much.

[English]

Mr. Rygus: They are two different fields entirely.

Mr. McCleave: Perhaps Mr. Lewis or Mr. Barnett could be next. Since time is getting of the essence for them, I will yield the right of way.

Mr. Lewis: I have very few questions. Thank you very much.

• 1205

The Chairman: Mr. Barnett is down.

Mr. Lewis: I am sorry.

The Chairman: Do you want to yield to Mr. Lewis?

Mr. Barnett: I just have really one area of questioning, Mr. Chairman, that arose out of something mentioned a little while ago. I was interested by Mr. Rygus' statement that the important determining factor in his judgment, with regard to the appropriateness of a bargaining unit, was whether an operation functioned as an integrated whole. He used Air Canada as an example and I assume that he was drawing a line between that kind of an operation, and for instance, a particular company that might have two or more pulp and paper mills, which operated as integrated units within a certain plant, and that one could be involved in a negotiation and the other would not. He mentioned that in an operation like Air Canada, if the employees in Ottawa, for example, were to be certified as a separate unit, that their bargaining power would not really be very strong. I assume from the way he spoke that he was referring to a general area of negotiations of an agreement. I would like to ask whether he

might not also agree that in certain circumstances a small group could exercise an undue bargaining strength, which, if they were separate and apart from other groups, could seriously affect the situation of other groups, in a way which would be vital to them, and yet in which they would have no voice.

I put this question leaving aside for the moment any consideration of what one might call the general welfare of the public, which a particular operation such as Air Canada was seeking to serve. I wonder if Mr. Rygus would care to give the Committee any comment on that particular aspect of the appropriateness of collective bargaining units.

Mr. Rygus: Mr. Chairman, I do not want to be unnecessarily long on that one, but it encompasses such a wide field I think we might do a lot of injustice by just giving you a very brief simple answer to a complex question.

Let me say this, to my knowledge, one of the considerations of the Board in determining a bargaining unit is the community of interest of the group. For example, not all of the units of Air Canada are national. We have local bargaining units in Air Canada, for example, we have a unit of about 25 printers in Montreal. That is the only printing operation there is in Air Canada, so we are certified separately for those printers. We had a separate agreement for them which we are trying at the moment to bring under the master agreement. We have a separate bargaining unit for the cafeteria employees at the Montreal operation. This is not a national operation; this is a local operation of a national employer. But these do not happen to be the kind of critical groups that you suggest in a total operation.

The best example, I think, we could use without trying to imply discredit to any union would be the kind of example you see in an average industry where the operating engineers, or the stationary engineers, when they are certified as separate bargaining units, could tie up an entire operation. Was that the kind of example you were referring to? A rather small group, it could be a local group, that could have a serious impact on the total operation? Yes, there are those situations although you will find with labour relations boards throughout the whole country that the tendency has been to deny groups of that nature separate bargaining units. I can think, for example, of the Ontario Board, which was

giving less and less consideration to splitting off craft, maintenance and such units ...

Mr. Lewis: Actually an amendment to the act.

Mr. Rygus: ... in industrial plants. The trend is in the reverse rather than in the extension of that field, precisely because of those problems. There are some cases of groups in critical locations, and the Angus Shops case was a very glaring example. The operations in the Angus Shops case, in many instances, had a life and death bearing on many, many other locations. Yet the Angus Shops case did not represent the majority employees at all of CPR. So you can draw many examples and many parallels to reinforce the point that you are raising.

• 1210

I just did not want to leave the impression that with a national employer all bargaining units are necessarily national. In our view, those units which are integrated nationally, which are interdependent upon the rest of the operation, cannot be anything but a national unit. However, we see nothing wrong with a printing department of Air Canada, located only in Montreal bargaining separately and being certified separately because it does not have a critical impact on the operations of the country.

The Chairman: Mr. Lewis?

Mr. Lewis: Mr. Chairman, I have a few questions. First, on the issue that you have just discussed, Mr. Rygus, I cannot remember which organization, but in its brief one of the organizations, I think it was the CBRT, suggested that the very presence of a threat of fragmentation, and the possibility for a group to threaten breaking off, could have a deleterious effect on negotiations and on the reasonableness of the demands made by a union in negotiations. Would you like to comment on that?

Mr. Rygus: Well, being one who has negotiated for the last 15 years throughout various parts of this country, I have been very much and keenly aware of that specific point. If you are dealing with a sizeable unit or particularly a national employer in a key location, for example Air Canada based in Montreal, which is the major operation in the maintenance field of aircraft, the threat of that group seeking separate certification could completely throw your bargaining topsyturvy. Or Angus Shops is another example in the

railway negotiations. The mere threat of that group going separately on its own would have a completely disturbing effect, and minimize the prospects and chances of getting a fair and reasonable settlement for everybody, in the whole company or in the whole operation.

Mr. Lewis: It is from my own experience that I was struck by that comment of the CBRT because it seemed to me to have validity. Now, one of the things that has disturbed a good many people in Canada, and a good many Members of Parliament, is the allegation—despite what you said, Mr. Rygus, let me tell you that from my own personal knowledge, the allegation is not entirely without validity in some cases—that international unions and some national unions in the past, have not given the French-speaking members of the unions, and the French-speaking members of bargaining units, the kind of service to which, in my view and in the view of others, they are entitled in their own language. This was one of the major difficulties with IATSE on the CBC Historically, and from my experience in the past, it was a difficulty from which some labour unions on the railways suffered.

I want, therefore, not only in relation to Bill C-186, but generally in relation to decent attitudes in Canada, to ask you about this. Has there, or has there not, been an improvement in this respect on the part of the unions connected with railways or air lines or any other national employer?

Mr. Rygus: Speaking of other unions I can only give you general observations and I do not want to be unfair to them, but it is my observation that the services in the French language have improved in recent years.

Let me be much more specific about, and elaborate on, our own case. It is difficult for any organization to be 100 per cent, in every instance, every day, bilingual in everything it does, but we start off by immediately sending a bilingual letter of introduction to any new member of our organization. He receives a bilingual pamphlet on the basic structure of our organization; a constitution in either or both languages; an officer's training guide in both languages; the shop steward's duties in both languages; and in both languages, all of the basic material that any member or officer would need in the province of Quebec.

• 1216

We insist that collective agreements be negotiated in both languages wherever the membership so desires. If they are nearly all

French-speaking they may not want it in English, but that is their choice. Where there is a demand for it we insist that they do so. We try as much as is humanly possible to have our publications in both languages, and we are constantly striving to improve in that field.

We have here a number of the documents and material that we use as our organizational basic material. We will be glad to leave them with the Committee...

Mr. Lewis: That is not necessary.

Mr. Rygus: ...as exhibits.

I can, however, speak much more about our own experience than I can for other organizations.

Secondly—and this is very important—our appointed field staff is bilingual, and practically all of them are French-Canadian. Those whose language is not French are bilingual.

We have no control over those the local people elect to the field staff. Occasionally somebody who speaks only one language will be elected, but this is the product of democracy, and people have the right to make that kind of choice.

Mr. Lewis: If I may interrupt you, in your organization you have staff members who are appointed by you, as Canadian Vice-President.

Mr. Rygus: That is right.

Mr. Lewis: And you have what you call business agents, who are elected by the local union.

Mr. Rygus: That is right. We have no control over those the membership elects. If they feel, because of a person's extraordinary qualifications, that they are prepared to accept him even though he may not be fully bilingual, that is their choice. Never in the history of our organization have we had an instance of someone's being turfed out during his term of office because he was incompetent in a language; and similarly with our local officers. These people are elected by the membership whom they serve. The shop committees, which handle the contractual matters, and those out on the job are elected by the local people.

Mr. Lewis: I suppose the vast majority of the members of your local unions in the province of Quebec would be French-speaking?

Mr. Rygus: As a general rule; I would say, that about 70 to 90 per cent are French-speaking.

Mr. Lewis: And it is they who elect the officers and the business agents?

Mr. Rygus: That is right.

Mr. Lewis: In the brief of, I think, District Lodge No. 2 there is a reference on page 7 to the fact that

The Canada Labour Relations Board has already the authority to certify units which are not national in scope, under Section 9 unamended, and the Board has certified such units—employees of grain elevators—

That is not your organization, or is it? I think that is the Canadian Brotherhood of Railway Steamship Clerks, Freight Handlers, Express and Station Employees.

Mr. Rygus: Grain millers and steamship clerks, and so on.

Mr. Lewis: And the American Federation of Grain Millers.

Mr. Rygus: Yes.

Mr. Lewis: Are you involved in "regional airlines such as Transair, Nordair and Eastern Provincial Airways"?

Mr. Rygus: Yes; we represent the employees of these companies.

Mr. Lewis: I have a very vague recollection, Mr. Rygus, that there were some particular factors involved in the Nordair certification. Would you tell us about that?

• 1220

Mr. Rygus: Yes. Here is one group under federal jurisdiction that was represented by the CNTU for about five or six years. Last fall this group came to us and said, "We are not satisfied with the representation we are getting from the CNTU". We made application for these people, and the CNTU did not even contest it. It did not even appear before the Board. So that is one group of people, within the federal field and practically exclusively within the province of Quebec, deciding to switch from the CNTU to our organization.

Mr. Lewis: That does not mean the CNTU is not a good union. You probably have lost members to some other union, as well, Mr. Rygus.

Mr. Rygus: This happens once in a while.

Mr. Lewis: Yes. Is Nordair limited to Quebec?

Mr. Rygus: They have extended their operations, and in some places they now go into Ontario. At one stage they had what they called a seaway route which went into Cornwall, Kingston, Peterborough, Toronto, London and Sarnia. That was discontinued. At the moment they have some bases outside Quebec.

Mr. Barnett: If I may interject, do they not serve a large area of the eastern Arctic?

Mr. Rygus: They do have many charter flights; and there are some flights into the Arctic.

Mr. Lewis: For what employees of Nordair do you have certificates?

Mr. Rygus: All of the employees...

Mr. Lewis: Except pilots, I suppose.

Mr. Rygus: Yes; not the flying crew, but the maintenance service people...

Mr. Lewis: Yes.

Mr. Rygus: ...for the total, or system, operation of Nordair.

Mr. Gray: And the dispatchers?

Mr. Rygus: No, not the dispatchers. If I recall correctly, they are now represented by the Canadian Airline Dispatchers Association.

There is a little history behind that one. They were certified by the CNTU, but ignored by the CNTU for a while and left unrepresented. The Board felt that by default they were entitled to be represented, and it certified another organization.

Mr. Gray: They were split off from the system by the CNTU unit before you came into the picture.

Mr. Rygus: That is right.

Mr. Lewis: The separate application for the dispatchers was by a dispatchers' association?

Mr. Rygus: That is right.

Mr. Lewis: From your experience, has it happened quite frequently within the Canada Labour Relations Board, that when a group is completely unrepresented the criterion of a national system by bargaining unit is not necessarily applied?

Mr. Rygus: That is right.

Mr. Lewis: On the ground, I suppose, that they have a right to be represented; and if no one else will do so they have a right to have their own group represent them?

Mr. Rygus: The criteria for unrepresented groups are different from those where a national bargaining unit already exists.

Mr. Gray: A national bargaining unit existed in this case, sir, and it was system-wide. The unit existed. It was certified by the Board.

Mr. Rygus: The unit existed, but it was neglected, and the Board felt that they had the right to be represented by somebody.

Mr. Lewis: It is analogous to IATSE and the CBC. It was finally decertified under section 11 of the Act, as it should have been earlier, in my humble opinion. It was finally decertified, as you know.

Mr. Rygus: I guess they felt like a deserted wife. They needed somebody to look after them.

Mr. Lewis: One final question about the Angus Shops, Mr. Rygus. We understand from the evidence that the contract for the Angus Shops is held by Division No. 4...

Mr. Rygus: That is right.

Mr. Lewis: .. which includes all the various craft unions in the shops.

Mr. Rygus: That is right.

Mr. Lewis: We were also told, if I remember correctly, that the contract is between Division No. 4 and the Canadian Railway Association; that is, not with one railway but with the Association representing all railways.

Mr. Rygus: That is right.

Mr. Lewis: I do not know, Mr. Chairman, whether or not we have ever had the judgments of the Board in that case tabled. There was some discussion about it at one point.

The Chairman: No, we have not.

Mr. Lewis: It is published in the *Labour Gazette*. I know I read it in the *Labour Gazette*. Mr. Picard wrote a separate judgment in that case, as I recall.

Mr. Rygus: That is right.

• 1225

Mr. Lewis: But he came to the same conclusion, that the unit was inappropriate?

Mr. Rygus: He felt that the unit the CNTU applied for was inappropriate.

Mr. Lewis: Can you remember—if you would rather not summarize just say so—whether he had different reasons from the rest of the Board for the inappropriate-ness?

Mr. Rygus: Well my recollection—and I am speaking from memory—is that he felt it should have encompassed the seniority units of these people which would have taken in Quebec and the Maritime provinces. Again I am relying on memory, but if I may comment here in our view seniority regions or seniority units do not necessarily jibe with appropriate bargaining units. It is easy to fall into that kind of trap, because through negotiation procedures you can amend your seniority units from time to time, which does not mean to say that it justifies amending the scope of your bargaining units.

Mr. Lewis: Mr. Picard is entitled to his view, but what I wanted to bring out is that neither Mr. Picard nor the rest of the Board were ready to agree to a local unit limited to one shop or to the province of Quebec.

Mr. Rygus: That is right; there is no question about that.

Mr. Lewis: Even Mr. Picard, who was willing to say that it need not necessarily be a national unit, nonetheless wanted to find some reasonable area and in his view the reasonable area was the Atlantic region. Would that be right?

Mr. Rygus: Yes; something along that line.

Mr. Lewis: That is the Atlantic region of the CPR which includes the Atlantic provinces wherever the CPR runs as well as Montreal and the province of Quebec.

Mr. Rygus: His analogy there was because certain seniority provisions extend within that region and not all of them do. There are seniority provisions which protect these people on a national scale also in the event of transfer of work. For example, we have had his case from Montreal to Edmonton; people are entitled to move with the work, but there are some seniority provisions that encompass that area so he used that as a criterion for determining a bargaining unit.

Mr. Lewis: The point that seems to me to be important is that even in his case the criteria were not the location or the language, but a viable bargaining unit which in his view might be attained in a unit encompassing one region of the railway instead of the entire railway, but not one province or one shop.

Mr. Rygus: Yes, very much so. Of course he would have some difficulty in arguing on the linguistic-cultural basis when his own organization refused to present any evidence in that case on those points.

Mr. Lewis: Mr. Chairman, on behalf of Mr. Barnett and myself I should like to apologize to the gentleman on your right for our having to leave at this point. It is not because of lack of interest.

The Chairman: Mr. McCleave?

Mr. McCleave: Mr. Rygus, my questions arise out of those asked earlier by Mr. Clermont and Mr. Gray and they had their germ, really back on page 26 of our Proceedings when Mr. Gray claimed paternity of the practice relating from the Quebec Labour Relations Board...

Mr. Gray: I would be happy to share it with you.

Mr. McCleave:...and he is dealing in criminological inexactitudes. Mr. Rygus, I take it you are opposed in principle to the idea of the Chairman of the Board and the representational people dealing with cases of conflict, that the representational people should not have a say in the decision. I take it you think this is wrong in principle?

Mr. Rygus: Frankly, so far as we are concerned the present practice of the Canada Labour Relations Board has served well and served the purpose in handling those problems. In the other provinces they are handled by the Board, whether it is a segment of the Board or the entire Board, and we can see no real advantage or no useful purpose served here.

• 1230

Furthermore it just strikes us that there is very little validity in having the representatives of management as well as labour participating in the hearings, perhaps having a voice in these issues, and then saying they are denied a final say in the determination of the dispute.

Mr. McCleave: Mr. Rygus, it seems to me that the strongest case the CNTU can make

for Bill C-186 is the case that also was put by Mr. Nicholson when he appeared before us, that justice must not only be done—and I think we are all agreed the Canada Labour Relations Board has done exactly that—but that it should seem to be done.

There is a large group, say up to 250,000 or 200,000, CNTU people in the province of Quebec that somehow or other have it in mind that justice is not being done from the set-up of the Canada Labour Relations Board. So, could I put this question to you, and this is just about the same question that I asked Mr. Nicholson at page 26—LBG, (long before Gray). The question is this: If you are to have the representational people taking part in the decisions, would it not be wise in principle to expand the numbers of those people on the Board so that the Chairman could pick two in every case to match the number there from management, but who would not have direct affiliation, say, with either CLC or CNTU, or if the dispute were between the CLC and the Teamsters or CNTU and the Teamsters, he would pick people not affiliated with any of those groups. Would that strike you as better in principle?

Mr. Rygus: The fact remains that so far as the structure and representation on the board now is concerned the employee representatives come from CLC affiliated unions and from the CNTU.

Mr. McCleave: But there are other labour groups in the country that could be called upon. Is that not correct?

Mr. Rygus: Is someone suggesting that perhaps we could select two, three or four other segments of the labour movement that are not now represented and appointed as members of the Board who could serve under those circumstances?

Mr. McCleave: In cases where there is a conflict between CLC and CNTU, get in labour people from outside who have no direct interest in that conflict but nonetheless would be able to bring the labour point of view to bear in making the decision. That is my suggestion.

Mr. Rygus: Perhaps at first impression it might seem to be a solution, but I can just see such a Board denying application to the CNTU on two or three occasions; we would hear the same arguments repeated over and over again. First of all, they would say naturally they did not get a decision because they were not represented on that Board. Second,

they would say because they were not represented equally they did not get the decision. I do not think that is a solution to the problem at all.

Mr. McCleave: Do you think if the CNTU is on the Board it is going to claim it is outweighed, and if it is off the Board it is going to claim it has no voice?

Mr. Rygus: I think ultimately you would get that kind of argument. I do not think you can win that one.

Mr. McCleave: All right, then, Mr. Rygus perhaps we win it this way. Which is the lesser of the evils, if you can read the mind of the CNTU this morning?

Mr. Rygus: I will try.

Mr. McCleave: The second one is the better one, is it not?

Mr. Rygus: I beg your pardon?

Mr. McCleave: The second one, I suggest, is the better one. At least you could say that the labour representatives were not directly affiliated with either group.

Mr. Rygus: Again I say in theory it might sound better here, but I suggest to you that is not going to solve the problem because, with all due respect, the propaganda of the CNTU has not been based on experience, or documented cases or what we consider to be really logical or fundamental reasons.

Mr. McCleave: Well, I am asking you. Could you make a choice and select the lesser of the two evils?

Mr. Rygus: Well...

Mr. McCleave: Granting the CNTU every Machiavellian instinct in the book that you wish.

Mr. Rygus: If I were looking for a choice, I would be looking for a real choice that would solve the problem and not look for the lesser of two evils. If Bill C-186 is a fishing expedition to look for the lesser of the evils, then I think the whole thing is a waste of time. I think the government ought to be submitting something that really is a solution to the problem and not looking for the lesser of the evils.

Mr. McCleave: Mr. Rygus, you do not want to decide which is the lesser of the evils, then?

Mr. Rygus: I am not one who believes in selecting evils; I believe in looking for a real solution to the problem.

• 1235

Mr. McCleave: All right. Let us say they are both good. Which one would you prefer? Should the CLC group always have its two or three people on the Board as opposed to the CNTU's one or would you prefer in cases of dispute between CLC and CNTU that the Teamsters and some other unaffiliated body have the say? Which of those two would you take?

Mr. Rygus: From my judgment as to which is the more sound, practical and useful way of handling it, I believe the present representation on the Canada Labour Relations Board is an equitable one and I cannot see anything wrong with it.

Mr. McCleave: So you have picked for the better and I suppose, in a sense, the lesser of two evils.

Mr. Rygus: I do not consider it as a lesser of two evils.

Mr. McCleave: Thank you very much.

The Chairman: One thing emerges clearly from this is, Mr. Rygus is not in the race for the paternity—the idea. I think it is significant that the co-paternity should cross party lines even if the idea is unacceptable.

Mr. McCleave: All right, Mr. Gray, I will move over and you and I can share the same bed, but I have the senior position on this one.

The Chairman: If there are no further questions—

Mr. Gray: I thought I had signified that I wanted to ask a few questions. I know this question of paternity is a delicate matter, but in spite of Mr. Rygus' dubious reaction to the suggestions put forward by myself and Mr. McCleave, it may be, as you have said, Mr. Chairman, that since the concept crosses party lines this may be something that we could pursue further, not necessarily at this point. I would be last to suggest that all wisdom is found solely on one side of the House or another, although I may have my own views were the preponderance lies and as I indicated, I am very happy to give credit to Mr. McCleave for independently coming to some of the same thoughts I have had on this difficult matter.

However, I have a question for Mr. Rygus. Are large numbers of the members of your union dissatisfied with it?

Mr. Rygus: Dissatisfied with what?

Mr. Gray: With the union and the way it is servicing them.

Mr. Rygus: Do you mean of our union?

Mr. Gray: Yes, your union.

Mr. Rygus: Certainly not. I am one who believes in travelling around the country to meet our people locally and have discussions on major problems, as far as time permits. We have a staff of 46 full-time people and one thing I can say about our membership they are never bashful about complaining, either at a meeting or by correspondence. I certainly have not detected anything along that line.

Mr. Gray: Well, if this Bill should be passed why would groups of workers in your union or any union with which the members were satisfied suddenly spring forward to ask to be split off?

Mr. Rygus: There are several problems. It is not a question of the immediate threat, but the potential threat that is involved here. All of us are practical and realistic and know that from time to time things can happen in a local area which may become a question of temporary discontent. These people thought there was a way out of their problem and the disruption of the whole national operation would provide them with an avenue to achieve this.

Mr. Gray: One thing that has troubled me about many of the briefs is an impression which, I think, is rather unfair to those who are presenting the briefs. I do not know if they realize it, but it seems to me by saying as soon as Bill C-186 is passed workers suddenly will rush forth and ask to be split-off, they are in effect saying they are not doing a proper job of servicing these members. I do not think that is consistent with what I know of the efforts of your union, but you are leaving this impression.

• 1240

Mr. Rygus: Mr. Gray, I am not trying to be unfair, but it is just like saying, "If marriages were to dissolve tomorrow, would your wife leave you?" I do not think we ought to be thinking in this context at all.

Mr. Gray: No.

Mr. Rygus: I would guess that the majority of the wives would stick with their husbands even if all marriages were annulled tomorrow or there were a possibility of annulling all of them.

Mr. Munro: I cannot agree with that.

Mr. Gray: Speak for yourself, Mr. Munro. I certainly do not disagree with you when you point to the benefits of system-wide bargaining and the harmful effects of splitting off groups of workers who have to come forward in large numbers in different unions across the country and ask to be split-off. It seems to me if the national unions in question are doing a proper job of servicing their members it is most unlikely regardless of what the law says that these people would suddenly run for it and ask to be split-off. You appeared to have said that the law as it is presently written, in effect, helps to force union members to stay in their present set up. Now, I do not think that this is consistent with what I hope will be the continued approach of the labour movement based on the democratic assent of its members with respect to participation and membership in a particular union.

Mr. Rygus: Mr. Gray, with all due respect, I do not think we should be starting out with a false premise. The principle we are discussing is no different than the principle involved in the average plant where a union is certified for the total operation of that plant in a single locality. If a particular department of five people in a 150-member bargaining unit are dissatisfied we do not see that it gives that minority the right to completely disrupt the established unit determined by the majority.

Mr. Gray: I do not disagree with you.

Mr. Rygus: If we have suggested that the minority has the right to disrupt for whatever reasons the established majority agreement, bargaining rights and everything else concerned, then we are just not in the same ball park, at all. This principle applies in a local bargaining unit. Let us just use your argument or extend it for one minute. Are you telling me if the CNTU were certified for the Angus Shops which might involve 1,500 people that 15 departments of 100 people each would have the right to fragmentize that particular shop into 15 units? That is an extension of your principle.

Mr. Gray: I am not telling you that at all, in fact, that was not my argument. I was trying to point out that if the unions in question were doing or continued to do a proper job of representing their workers, I would think the overwhelming majority of these workers would be most happy and anxious to stay with your union and the other national unions concerned regardless of what the law said.

I just want to add the comment that in your brief you very fairly pointed out that there is nothing in the present law to prevent individual groups of workers—local groups—from coming forward and asking to be certified and being certified. The threat or the risk exists right now. I agree with you when you said if this risk came forward, matured and materialized, it would not be in the best interest of all concerned, but you seem to have implied that the way the present law is structured there is something implicit in it that prevents this risk. I think your own brief quite correctly puts forward the view that that is not so.

• 1245

Mr. Rygus: First of all, the record of the present Board in handling these matters has been based, in our judgment, on a pretty sound and fair criteria. If the Act is amended it must be amended for a reason. I would hope that the Committee members or the government do not spend their time changing words in acts purely for the sake of semantics. There must be a purpose, there must be a positive reason for changing that section of the Bill, and it certainly appears to us that the positive reason is at least an implied directive to the Board to give greater consideration in that direction. Now those who are knowledgeable, and I am not saying you are not, in the problems and have had considerable experience of negotiating and so on, know that one can find himself faced from time to time with extraordinary local conditions that can give rise to temporary discontent. Let me just give you an example. A couple of years ago happened to be an opportune time for the building trades in the city of Montreal to sign a very extraordinary agreement. This was because of Expo and a tremendous building boom and it had a very significant impact on bargaining in that region. But that has been only a temporary impact. Today the situation is considerably different. That particular temporary incident could have wrecked bargain-

ing in national industries in the Montreal area for a temporary period and the shoe could be entirely on the other foot two or three years from there on. So in talking about discontent there are many practical problems that exist from time to time and if you live through them, with them, and know the reasons and the fluxuations of these things, only then will you comprehend the total potency of this Bill.

Mr. Gray: I think you have expressed yourself very forcefully in this issue and I must say, as far as our brief is concerned, you expressed yourself quite fairly, taking into account other points of view, and quoting the remarks of the Prime Minister and so on to the effect that he did not think this would lead to this type of breakup.

I just wanted to say in conclusion that you have used the words "implied directive" and "greater consideration" and pointed to the effect of Bill C-186 on the Canada Labour Relations Board. I think Mr. Lewis would take great issue with me if he were here, and that is why I should note that for the record—but in expressing my own opinion, if the Act were passed I think the only real effect would be what you yourself have said, some obligation of the Board to give greater consideration to these questions of local bargaining, but that they would be free as before to take into account all the other criteria and, on the merits, grant certification on the same basis, again as before, and I think the merits would lead in most cases to the units which had a system-wide international basis. However I recognize there are other arguments and other points of view that can be put forward.

Mr. Rygus: With all due respect, Mr. Gray, this is my feeling and I do not think I can be convinced otherwise. If that particular section of the Act was intended to be undisturbed then I just do not see why you people would go about completely changing the language in it and stating it in a much more positive fashion than it was previously.

We cannot look at that one totally in isolation. You do three things, first, in clause 1 you state in more positive terms that these certifications can be under local, regional or national basis. Second, you go to the extent of changing the structure of the Board, which gives us some concern as to what could happen, because of that change. Third, you set up an appeal panel, which is an additional step, and if you do not get it in clause 1 you might be able to get it in clause 3, and if you

do not succeed in clause 3 you might succeed in clause 5.

Mr. Gray: You might get it in none of these places.

Mr. Rygus: That is true, but it appears to us that you people are setting up three steps which will make it easier to fragmentize national bargaining units.

Mr. Gray: Or you could say that we are setting out three steps which would make it easier to convince those that think otherwise that they are being fairly dealt with even though they do not get the decisions they want and are complaining about at the present time. I wonder if I may paraphrase a little differently Mr. McCleave's approach. I recognize that this can be argued in various ways at great length.

The Chairman: And, in fact, has been.

• 1250

Mr. Rygus: Actually, and I do not say this disrespectfully, there has been a great deal of propaganda on this question on the basis of linguistic and cultural identity. If we are going to take that as one of the major factors in determining bargaining units, if clauses 1, 3 and 5 are not going to suit their objectives then the propaganda is going to be just as heavy and just as strong in that particular area.

Mr. Gray: Linguistic and cultural factors are not mentioned in the Bill and, if I may express my own view, I think that where a national union gives proper attention to this matter French-speaking workers can get just as good representation and service in their own language as one specifically aimed at their cultural or linguistic identity, but this poses a serious obligation on the national union in question which, in the past at least, not all of them have appropriately recognized. I am not making any reference to your union particularly but I just express my impression in this respect.

Mr. Rygus: I want to elaborate on that, Mr. Chairman, because I was dealing with the potential propaganda value. Let me say—and those of you who want to verify my statement can do so—that only a few years ago a senior officer of the CNTU, during their campaign against the Canadian Brotherhood of Railway Transport and General Workers unit on the Montreal Transportation Commission, got up

and said: "Even if the CBRT were doing a good job and even if they were a good union you people should have a French-speaking union. You should not be sending your money to a foreign country in Canada. Keep it all in Quebec." The implication was there, the foreign country was Ottawa. This is where the CBRT headquarters was. "Do not send your money to a foreign country in Canada. Keep your money in Quebec. Keep your union French-speaking"—the propaganda has been extreme and volatile on that issue. I am saying to you that if they do not get their objectives in clauses 1, 3 and 5, this is not going to minimize the propaganda, the discontent or the appearance of being fair is not going to change with them one iota. I think we have to look for much more sound, valid and real substantive cures to the problem rather than those of pressures and propaganda.

Mr. Gray: Could you put forward what you consider to be the substantive cures to the problem. Perhaps it would be very helpful to us if we had those at this time.

Mr. Rygus: Frankly, on these particular points it is our view that the Act and the operations of the Board are operating reasonably well. We are not saying that they are 100 per cent perfect because there are times when we think that things could be a little faster. Sure there are times when we felt we did not get the right decision of the Board but I guess every loser feels that way for whatever reasons he can find. But, honestly, we do not have any real substantive dispute with those provisions of the Act at the present time.

The Chairman: That is the first time I have heard of a substantive change amounting to the status quo.

Mr. Rygus: Where a thing is operating reasonably well there is nothing wrong with the status quo.

The Chairman: But you did mention that you thought we should not be proceeding in a piecemeal fashion, that we should undertake substantial and definitive change, which seemed to me to be somewhat of a contradiction.

Mr. Rygus: Mr. Chairman, my position was that if we are going to think about amendments to the IRDI Act let us look at the whole Act, and let us not select the least problem areas, give them top priority, and

leave the more urgent areas to some time-consuming procedure for solution.

Mr. Munro: Mr. Chairman, will these gentlemen be back this afternoon?

Mr. Rygus: At your pleasure.

The Chairman: It does not appear to be necessary unless the Committee wants more time.

Mr. Munro: I realize there will not be enough time now but I would like, if possible, to ask a few questions this afternoon. I suppose there are other people waiting.

The Chairman: No, there are not.

Mr. Munro: We are meeting this afternoon, are we not?

The Chairman: We can meet if the Committee wants to meet this afternoon.

Mr. McCleave: Let us clear it up now.

[Translation]

Mr. Émard: Mr. Chairman, I should like to put a question to Mr. Rygus. Do you consider yourselves to be a trade union, an industrial union, or both?

[English]

Mr. Rygus: We are both craft and industrial.

[Translation]

Mr. Émard: You were speaking earlier of the advantages of negotiations undertaken on as broad a base as possible. I was wondering why your unions do not join together to negotiate on a nation-wide scale, even if certification is a matter for provincial jurisdiction, in order to eliminate as much as possible, among other things, regional differences in salaries.

[English]

Mr. Rygus: Well, there are really two problems. First of all, outside of the federal field you are certified provincially, and you can do one of several things; you can either try to line up these companies on a common termination date and try to establish equal rates and conditions which is a process of collective bargaining. Believe me, that is not easy. Records will prove that many times it has taken quite a few good tough long strikes to force these companies into common termination dates and equalization of wage rates and standards. But this is not something you

achieve overnight. In many ways we are trying to achieve these things.

We are talking about two things though. For example, with a single company that has operations in many provinces, it is easier to line off a master agreement, even though you have provincial certifications, than it is with five, ten or fifteen different companies in the same industry, where some of them might be in segments of the total business, while others might be in the total business. Let me give you an example in the aerospace field. We have about 15 to 20 companies under agreement; the largest one has about 5,500 members, and the smallest one has about 50 members. These companies deal with the widest range in that industry, and they are from one coast to the other. Believe me, it is not an easy task—even though the industry is the same their operating and business characteristics are not that similar—to bring them all into line. But, our goals and our objectives are, as much as possible, to do exactly what you are suggesting, to bring these groups under similar wage rates and similar conditions in as practical a way and as quickly as we can.

[Translation]

Mr. Émard: Is your union in favour of the task evaluation system?

[English]

Mr. Rygus: Job evaluation?

Mr. Émard: Yes.

Mr. Rygus: We are absolutely opposed to it. Let me just elaborate on your previous question a little more. We have achieved fairly close to equal rates in many companies in the air lines though they are not of similar size and similar nature. Canadian Pacific Airlines and Air Canada, for all practical purposes, are identical in wage rates and conditions. Some of the smaller carriers are not far away from the national carriers in terms of wage rates and working conditions and given a few years time we will have pretty close to equal conditions in those.

[Translation]

Mr. Émard: You said earlier that the CNTU, in some cases, said that even if—I am I speaking too quickly and is simultaneous interpretation of what I am saying possible?

Mr. Rygus: No.

Mr. Émard:—even if the CPRT is a good union, French Canadians should keep their money in Canada. I do not want to start a controversial discussion about international unions, for it is already two minutes to one o'clock. However, every time I have put certain questions to the representatives of certain international unions, it seemed to annoy them. I should like to say, nevertheless, that I ask these questions in all sincerity. I have no intention of putting you to the test. I would like to know—and we often wonder about this here—what proportion of the contributions of your unions goes to the United States? Can you tell us that, or is it a secret?

[English]

• 1300

Mr. Rygus: Mr. Émard, you could not have asked a better question. If this Committee thinks it would be useful and helpful to them, we will gladly provide them with six months operating statements of our organizations which show our receipts and our expenditures. Let me tell you that the Canadian section of our membership gets more than their share of the international dues dollar. Every cent of our money is kept in Canada, in the Royal Bank of Canada in Montreal. In fact, I am only hoping that one of these days our American membership do not find out everything and ask why our Canadian membership gets so much preferential treatment. Then we are going to have problems in the other direction.

If this Committee is interested in seeing our Canadian operating statements which list the money we take in and the money which is kept in Canada, we are prepared to go into that subject any time you want.

[Translation]

Mr. Émard: Do the amounts deducted from employees' salaries for the strike funds also remain in Canada?

[English]

Mr. Rygus: Absolutely, for record-keeping purposes. I might say we now have over 1,000,000 members in our organization, and this requires quite a sizeable maintenance operation for accurate membership. Our master records are at our headquarters in Washington, but all our Canadian funds are deposited in Canada. When our members go out on strike their strike cheques are drawn on the royal Bank of Montreal in Canada.

I should qualify that a little bit because there are some parts of our operations that are not even charged against our Canadian account. To give you an example, under strict accounting methods our headquarters ought to be charging our Canadian account between \$100,000 to \$200,000 for administrative operations including record maintenance, research department, certain legal fees, and many other facets of our operation, but these are not charged against our Canadian account. Consequently, our organization has much more money proportionately in Canada than the size of our operations justify.

It often surprises people when I tell them that even during the period when the Canadian dollar was higher than the United States dollar we did not transfer one penny from Canada to the United States. We just believe in the principle of keeping the money where the membership is.

[Translation]

Mr. Émard: Does this also apply to the pension fund?

[English]

Mr. Rygus: Pension fund? Yes.

[Translation]

Mr. Émard: Thank you very much. I would have other questions to ask you, but it is already one o'clock.

[English]

Mr. Mackasey: May I ask one supplementary question? Mr. Rygus are you elected by the Canadian members only, or at an international convention in which all union members participate?

Mr. Rygus: The senior officer in Canada is the General Vice-President and he must be a Canadian. Let me just elaborate a little more on that. All of our Executive Council is elected by the total membership of the organization.

Mr. Mackasey: Including the Americans?

Mr. Rygus: Including the Americans, yes.

Mr. Mackasey: This, I am sure, is not the case with your union because I know the history of your union and I know you have a lot

of wild Irishmen in Montreal that are active in it.

Mr. Rygus: You said it, I did not.

Mr. Mackasey: Theoretically if the Canadians are dissatisfied—I am speaking of another union but I appreciate your honest approach to it—with the performance or the role of the Canadian General Vice-President, what can they do about it at an election? Is not their voice swallowed up at an international convention?

Mr. Rygus: Well, they certainly could vote against him but the records would not show the Canadian proportion of the vote.

Mr. Mackasey: They could vote where? At the convention?

Mr. Rygus: No, the election is by referendum vote; not at the convention.

Mr. Mackasey: What is the proportion of Canadian membership of these million that you mentioned?

Mr. Rygus: We have over 51,000 members in Canada, and there are over 950,000 in the United States. However, let us say that half of the membership in Canada voted, and if the vast majority of them voted against the incumbent General Vice-President, it would certainly indicate discontent, but that has never been the case.

• 1305

Mr. Mackasey: It would indicate discontent but what effect would it have on the outcome of the election?

Mr. Rygus: It would not have any in that particular election, but at the next convention I can assure you, there would be plenty to say about it.

Mr. Mackasey: How many years apart are these conventions?

Mr. Rygus: Every four years.

Mr. Mackasey: That is fine.

The Chairman: Well, gentlemen, we thank you very much. There will be no need then for a meeting this afternoon. The next meeting of the Committee will be Tuesday at 11:00. Thank you gentlemen. The meeting is adjourned.

APPENDIX XIV

Supporting representatives of the delegation from the International Association of Machinists and Aerospace Workers:

Jean Lachapelle, Grand Lodge Representative.

R. Nat Gray, Grand Lodge Representative.

Maurice Boisselle,

Aldo Caluori, Grand Lodge Representative.

Marcel Archambault, Special Representative.

Mike Pitchford, Airline General Chairman, Air Canada, Montreal.

Rhys Davies, Airline General Chairman, Air Canada, Winnipeg.

Patrick O'Grady, Airline General Chairman, C.P.A., Vancouver.

Les Conley, General Chairman, C.P.R.

Larry Barrett, Business Representative, L.1660, Montreal.

Marcel Maisonneuve, Business Representative, L.712, Montreal.

Jean Paul Hebert, Business Representative, L.2133, Montreal.

Harvey Savoie, Business Representative, L.987, Montreal.

Val Bourgeois, Chairman, C.N.R., Atlantic Region.

Edgar Hickey, General Chairman, Cumberland Rlwy., L.684, Glace Bay.

Leo Martel, L.118, C.N.R., Montreal.

Claude Brunet, L.118, C.N.R., Montreal.

R. A. Jolliffe, L.371, C.P.R., Ottawa.

George Daley, L.1751, Air Canada, Montreal.

Barry Dingwall, L.2323, Air Canada, Toronto.

APPENDIX XV

The delegation from the Special Committee of the C.L.C. of Transportation Unions, other than railroad:

Mike Rygus, General Vice President, I.A.M. and Vice President, Canadian Labour Congress.

Harold Thayer, Grand Lodge Representative, I.A.M.

William Smith, President, C.B.R.T. & G.W.

Mr. MacCarson, Representative C.B.R.T. & G.W.

Mr. Robt. Cook, President, Canadian Merchant Service Guild.

John Hayes, President, Canadian Airline Employees Association.

Robert Smeal, Representative, Canadian Airline Flight Attendants Association.

W. C. Y. McGregor, Vice President, Brotherhood of Railway and Steamship Clerks.

D. J. Kennedy, President, Canadian Airline Dispatchers Association.

APPENDIX XVI

BRIEF ON BEHALF OF
INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS
TO THE HOUSE COMMITTEE ON LABOUR AND EMPLOYMENT
RE: Bill C-186

March 7, 1968

I welcome this opportunity to present to the members of this Committee our views on the proposed changes to the Industrial Disputes and Investigation Act as proposed in Bill C-186.

The International Association of Machinists and Aerospace Workers has over 51,000 members located in every province in Canada. Of these, over 12,000 are in industries which come under federal jurisdiction through the IRDI Act.

We have been a part of the Canadian trade union scene for 78 years. Our first lodge 103 in Stratford, Ontario, was started by railroad machinists in 1890. It is still an active lodge today. By 1893, we had established our union in lodges from St. John, N.B. to Vancouver, B.C.

Today our membership will be found in large and small manufacturing plants, garages, machine shops, aerospace plants, airlines and railroads.

Our railway members established the first national agreement ever signed in Canada. A copy will be found in Volume 1 of the "Labour Gazette" of 1900. They were amongst the first to enjoy the benefits of national wage rates.

One of the last acts of the Wartime Labour Relations Board was to certify the IAM as the bargaining agent for all TCA Mechanics and ground personnel in August 1948. Today we represent the mechanics and ground personnel of Canada's two national airlines, Air Canada and CPA as well as the employees of every major secondary airline in Canada. We are vitally concerned over any amendments to the Industrial Disputes Investigation Act.

We are shocked that the government would introduce major changes in labour legislation before the Task Force on Industrial Relations now studying the whole field of labour relations has even made a preliminary report.

I would like to state as emphatically as I can that we are opposed to Bill C-186. In our view it will do irreparable harm to labour relations in Canada. It will threaten industrial peace and national unity by dividing workers on linguistic and cultural grounds. It is ironic that at the very time the government convened a Constitutional Conference with the Provincial Premiers in order to build a stronger and more united Canada, it should be proceeding with a Bill which, more than anything else, will work in the opposite direction.

It is our considered opinion that Bill C-186 represents nothing less than a sell-out to the CNTU by the present Government of Canada. This legislation was not sought by the Canadian Labour Congress nor any of its affiliates. Certainly it was not sought by the International Association of Machinists and Aerospace Workers.

This legislation was requested by the CNTU after they were defeated in their attempts to organize regional or limited groups of workers on the CPR and the CBC. In each case, the CLRB refused to fragment already established national bargaining units. These decisions were taken only after lengthy investigation and consideration.

We are grateful to the Minister of Labour for being so candid before this Committee on February 1st, in which he made clear the reasons for the introduction of this Bill. He referred to the rivalries between the CNTU and the CLC. This rivalry is localized in the Province of Quebec. He quotes as his justification that the membership of the CNTU has risen from 60,000 members 12 or 13 years

ago, to an alleged 250,000 members while he acknowledges that the Congress membership in that same period of time has gone up from over one million to one million five hundred thousand. One could draw the conclusion from Mr. Nicholson's comments that the purpose of this Bill is to encourage and accelerate the rivalries now existing between the CNTU and the CLC. We are certain that the only beneficiaries of such a situation would be the employers. The outcome of such increase rivalry, would have disastrous repercussions on the economy of Canada as a whole. Mr. Nicholson has admitted on Page 9 of the Minutes of this Committee dated February 1st, 1968, that this Bill has been introduced at the request of the CNTU and over the opposition of the Canadian Labour Congress. This is nothing more than a complete surrender to a minority group in the trade union movement. This minority group does not have any appreciable membership outside the Province of Quebec, but in addition it is a minority trade union group within the Province of Quebec. The Quebec Federation of Labour with an affiliated membership of over 325,000 represents the majority of the organized workers in the Province of Quebec. Surely this makes a mockery of Mr. Nicholson's professed objective that, "the important thing is that not only must justice be done, but manifestly—to the people appearing before them—it must seem to be done." To proceed with this ill-considered, hastily prepared and poorly drafted set of amendments is to inflict a disaster upon Canadian workers in the federal domain.

The Industrial Relations and Disputes Investigation Act was designed to bring about orderly procedures for the certification of unions and the handling of disputes during the life of the agreement. The basic principles were developed by the Wartime Labour Relations Board, and served us reasonably well during World War II, and in the twenty years since.

One basic principle was that when a majority of the employees in an appropriate bargaining unit want a particular union to represent them, then that union should be certified as the bargaining agent. This means that the minority has to abide by the decision of the majority. This is the essence of democracy.

Secondly, the unit considered appropriate for collective bargaining has never been determined by rigid rules. The community of interest has always been a criterion. It has

never been based on a linguistic or cultural commonality of interest. The established practices in the industry, local conditions and considerations, and special circumstances in which the work is organized and carried on in the employer's establishment are all factors which may enter into the conclusion.

Other considerations are: (a) common duties, skills, wages and working conditions; (b) substantial community of interest, by virtue of terms of employment, in collective bargaining for wages and hours; (c) viability of the unit; (d) transferability from one working unit to another; (e) custom and practice, or history of collective bargaining or pattern of bargaining in the area; (f) permanence of the unit; and (g) the fundamental coherence of the unit.

We contend these are some of the valid criteria to guide Board members in arriving at their decisions.

The proposed amendments to Section 9, Subsection 4 called (4a) states:

"Where the business or activities carried on by an employer are carried on by him in more than one self-contained establishment or in more than one local, regional or other distinct geographical area within Canada and an application is made by a trade union, for certification under this Act as bargaining agent of a proposed unit consisting of employees of that employer in one or more but not all of those establishments or areas, the Board may, subject to this Act, determine the proposed unit to be a unit appropriate for collective bargaining."

This amendment specifies two criteria which are to be given additional weight by the Board in reaching a decision as to a unit appropriate for collective bargaining. The first is that where a business or activity is carried on in more than one self-contained establishment, the Board may determine the proposed unit to be a unit appropriate for collective bargaining. The second is where the business or activities carried on by an employer are carried on by him in more than one local, regional or other distinct geographical area the Board may determine the proposed unit appropriate for collective bargaining. This is stating in law specific values the Board may or ought to consider in determining the appropriate unit. This legislation could open the door to appeals beyond even the Appeal Board proposed in this Bill.

Professor Carrothers in his definitive book *Collective Bargaining Law in Canada*, states on Page 232:

"The Labour Relations Boards are given extensive discretionary powers to give effect to the statutory scheme of collective bargaining. In nearly every instance direction is given to the exercise of such power. The outstanding exception is the power to determine the unit of employees for which the unit is to be recognized as exclusive bargaining agent. As a consequence, this jurisdiction of the Board is the least violable by judicial review, for the determination is based on evaluative fact, and the standards of appropriateness defy definition;..."

The Board already has the broadest possible authority under Section 9 (1) to determine the unit appropriate for collective bargaining.

This authority has been exercised with the widest possible latitude. Certificates have been issued covering single plants, companies whose operations cover several points in a region and companies whose operation is nation-wide. The records showed that the Board has exercised good judgment in determining the appropriateness of the bargaining unit. What then is the reason or motive for the proposed amendments?

THIS AMENDMENT IS UNNECESSARY UNLESS THE GOVERNMENT INTENDS TO GIVE A DIRECTIVE TO THE NEW CANADA LABOUR RELATIONS BOARD

It could conceivably be a mandate for example to split the Angus Shops and other points in the Province of Quebec from the rest of the bargaining unit covering the CPR employees should the CNTU attempt to apply for certification.

The Minister of Labour has stated publicly that he has no intention of fragmenting national bargaining units on the railways. The Prime Minister has stated in a letter dated January 26, 1968, and I quote the last paragraph:

"The government has confidence in the Canada Labour Relations Board and fully expects that, in exercising the power it now holds, in the future, the economic viability of national bargaining will not be disrupted."

The additional "clarification" made in the proposed amendment of Section 9, Subsection (4a) gives a new direction to the Board and

it may very well interpret the amended act to require them to take regional, and geographical areas into consideration when determining the unit appropriate for collective bargaining. If the CLRB did not, then the Appeal Board might.

It is legitimate to take the position that if the government did not intend to direct the CLRB to take these new criteria into account, then the Act would not be amended.

With respect to Section 58B, which would establish divisions of the Board to hear applications for certification, we can find no justification whatsoever for this proposal. At the present time, the Canada Labour Relations Board meets two or three days a month. We have not had any reason to complain about the activities of the Board, nor have there been any complaints made of any delay in the Board processing applications or matters before it. We would like to point out to you that there is no comparison between the number of certifications handled by the Canada Labour Relations Board and the number coming before the Quebec Labour Relations Board or the Ontario Labour Relations Board. Both of these Boards deal with hundreds of applications for certification covering small shops and small employers. Our information is the CLRB handles an average of 146 cases per year and this compares to approximately 400 certifications issued in the first six months of 1967 in British Columbia, 284 in Ontario, 294 in Quebec, and our information is that there are some 800 to 900 applications processed in Quebec, of which the 294 were certifications which had been approved. It is obvious that when Provinces such as Alberta and British Columbia handle more cases than the Canada Labour Relations Board, there is little need for breaking the Board up into divisions on the excuse that the workload is too heavy. We do not have to tell you that at the present time they only need meet two or three days a month.

We are concerned over the attack on the integrity of the present members of the Board which was made by Mr. Nicholson in his appearance before this Committee on February 1st and was made earlier by Mr. Marchand, the former President of the CNTU, now Minister of Manpower and Immigration in the House of Commons. Mr. Nicholson on page 8 of the minutes of February 1st, states: "As I say, labour and management are meant

to balance each other, but when there is a dispute of this nature labour is not balanced; and, I am sure any fair-minded person will admit that. In a jurisdiction dispute or in a representational dispute, no matter how fine a man a member may be, is it not highly probable that the philosophy that represents his thinking may influence his decision? I do not care whether it is the CNTU or the CLC. It may be that in a great many cases you can get unanimity, but in some cases the basic philosophy is bound to affect the mental approach of the man making the decision, particularly when you get radically opposed union groups."

Mr. Marchand made the same smear earlier during debate on the introduction of Bill C-186, December 4th, 1967, when he stated: "I have never seen, in the Canada Labour Relations Board, members of the Canadian Labour Congress voting against one of their unions concerned, when it was in conflict with another union. It happened that the members of the Canadian Labour Congress divided when they had to deal with two requests coming from their own central committee, but never in the case of one request only coming from a union under the Congress." We would like to point out that both statements are made without any substantiation as to fact, and that neither Mr. Nicholson nor Mr. Marchand have been privy to the meetings where the Canada Labour Relations Board made its decision on matters before it. Of course, the accusation of partiality which has been made applies to the employer representatives and other members of the Board, including Mr. Gérard Picard who represents the CNTU. However, to refute this, I would like to quote from the Reasons of Judgement in the Application of the CNTU for the employees on the Canadian Pacific Railway Angus Shops, in which Mr. Picard in his minority report states: "In conclusion, for other reasons than those given by the Board, I am in agreement, in the circumstances and taking into account two particular facts connected with the railways, that the bargaining unit as proposed by the applicant is not appropriate." Here we see Mr. Picard, a member of the CNTU voting against the application for certification and the interests of his own organization. We are satisfied that all members of the Board have so exercised their oath of office, which is to uphold the laws of Canada and to administer the Indus-

trial Relations and Disputes Investigation Act as passed by Parliament. We are also satisfied that over the years they have exercised this responsibility with integrity. We are not satisfied that there is any reason to change the composition of the Board for the reasons cited by Mr. Nicholson.

The proposal to establish an Appeal Board, 61A(1) is one of the most destructive steps to be introduced in the field of labour legislation. To establish a three-man Appeal Board including the Chairman or Vice-Chairman of the CLRB to review a decision of the Board is to nullify the usefulness of the Board. Why have a representative Board if their decision can be set aside by two men who are representative of neither labour nor employer. Why have eight when three can do as well?

Such a procedure will tie up unions and those unorganized workers wanting to be organized for months in an appeals procedure. Every employer will use it if a certification is awarded by the Board. This retrograde step can only bring harm to the unorganized worker. It will make it more difficult for him to join the ranks of the organized.

For years all Labour Relations Acts have been free of an appeals procedure governing Labour Relations Boards. The harmful precedent proposed in this amendment could spread like a cancer across Canada.

Some of the arguments put forth to justify linguistic and cultural commonalities as the basis for determining a unit appropriate for collective bargaining are based on charges that some unions do not service the membership with French speaking staff and that communications are not available in the French language. We would like to point out that of our full time international field staff representatives in the Province of Quebec, six regard French as their mother tongue and the one who regards English as his mother tongue is bilingual. Of our elected Business Representatives, who are elected by the members of the locals that they service, five are French and five are English speaking with one bilingual.

Of our local officers and shop stewards, over 90% are French speaking, some bilingual, with most of the remaining 10% being bilingual.

Our contracts are available in French and English as are our Constitutions. We publish a Canadian Machinists Newsletter in French and English.

The business at a local lodge in the Province of Quebec is conducted bilingually or in French, a decision made by the membership in each case.

The findings of the Canada Labour Relations Board in the Angus Shop application of the CNTU confirmed these facts.

This proposed legislation is not good legislation. It was requested by a minority group for their own benefit. It can harm the Canadian economy and create industrial chaos. Rather than become involved in crucial jurisdiction battles within the Province of Quebec,

we are satisfied many national companies will quietly move key operations to other provinces. This will harm the economy of the Province of Quebec and lower the living standards of Quebec workers.

We urge that this legislation be shelved. There are many urgent reforms required in the field of Labour Relations. There is a Task Force presently undertaking one of the most penetrating examinations of this whole field. We should wait for their report and recommendations.

Respectfully submitted

Mike Rygus

GENERAL VICE PRESIDENT

International Association of
Machinists and Aerospace Workers

APPENDIX XVII

BRIEF BY DISTRICT LODGE NO. 2 INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS TO THE HOUSE COMMITTEE
ON LABOUR AND EMPLOYMENT RE: BILL C-186

We welcome the opportunity to appear before your Committee to express our opposition to Bill C-186 on behalf of over 5,000 Machinists working on the Canadian Railways from Victoria, B.C. to Saint John's, Newfoundland. In our view, this is legislation inspired by the CNTU and designed to help the CNTU in its efforts to raid organized workers on Canadian railways and in other areas. You may not agree, but in our eyes it is a sell-out to a minority union group.

In order that the committee may understand why railway machinists are so opposed to this Bill, we would like to cite the history of the collective bargaining process which has developed over a very long span of time on Canadian railways. Our Union was founded 80 years ago in May of 1888 in a railway shop in Atlanta, Georgia by a group of 19 machinists. Within less than two years, our first Canadian Lodge No. 103 in Stratford, Ontario, which represented the machinists in the Roundhouse of the Grand Trunk Railway was organized. That Lodge has been in continuous existence ever since 1890—a period of 78 years. We were the first of the craftsmen to organize on the railways and within a very short period of time, we had organized the Roundhouse in Montreal with Lodge 111 and by 1893 we had organized Lodges 122 in Winnipeg, 182 in Vancouver, 235 in Toronto, 535 in Chapleau and 594 in Moncton. Historically, our organization expanded with the growth of the railways. We thus became one of the first unions with an organization from coast to coast. Our history has not been an easy one. Our first union agreement was signed with the CPR covering the shop trades on the railway after a 28-day strike. That settlement provided for a shorter work week, some improvement in wages and a recognized grievance procedure. Volume 1 of the "Labour Gazette", covering the period September 1900 to June 1901, on pages 71, 72, 73, 74 and 75, outlines the strike which took place on the Western Lines of the CPR and the settlement negotiated as a result of that strike. It is interesting to note that for Western Canada at

that time there were regional rates covering the area Fort William to Broadview, Broadview to Laggan, Laggan to Kamloops and Kamloops to Vancouver. The wage disparity within the Western region at that time was from 28½c. an hour to 32c. an hour—a spread of 3.5c. per hour. A very significant part of this agreement, which was the first to apply nationally, was the schedule covering the apprentices. This is found on page 73 of Volume 1 of the "Labour Gazette". I think that it is of some significance to note that the first agreement on the railways to establish national standards was one covering apprenticeship training. The development of standard wage rates across Canada for Machinists was very slow as was the development of national bargaining. We have on file agreements covering the year 1902, which establishes schedule of rules and rates governing the service of machinists on Western and Pacific divisions of the Canadian Pacific Railway. In 1906, the collective agreement shows that we had a differential of 6c. an hour between the Angus Shops in Montreal and the Lake Superior and West Division. Rates in those days in the Angus Shops were 26c. per hour, the Atlantic Division 27c. per hour, the Ontario Division 27c. per hour, Eastern Division 27c. per hour, Lake Superior Division, North Bay to the Sault 28c. per hour, Lake Superior Division, Cartier and West 32c. per hour.

By 1908, under the leadership of the former Vice-President, James Summerville, we had developed the Federated Trades and there was co-ordinated bargaining on behalf of the skilled tradesmen on the Canadian Pacific Railway. Our collective agreement, which was effective May 1st, 1909 to April 1st, 1910, shows that the rates of pay for Machinists, east of North Bay including the Angus Shops, was 30c per hour, North Bay and Sault 32c per hour, Cartier and West 36c per hour.

During this time we had reduced the number of regions, but we had not eliminated the

6c wage disparity which existed from Eastern Canada to Western Canada. It is of prime importance for us to note that when we had regional rates the Angus Shops were at the bottom of the scale. Only until we established national bargaining did we eliminate this gross injustice.

National bargaining on Canadian Railways became a reality on May 1, 1918 with Wage Agreement No. 1, between the Canadian Railways War Board and Division No. 4 Railway Employees' Department, American Federation of Labour. This agreement was effective on the following railways:

Canadian Government Railways

Canadian Northern Railway

Canadian Pacific Railway

Dominion Atlantic Railway

Edmonton Dunvegan and British Columbia Railway

Esquimalt and Nanaimo Railway

Grand Trunk Railway

Grand Trunk Pacific Railway

Halifax and Southwestern Railway

Kettle Valley Railway

Quebec Central Railway

Temiskaming and Northern Ontario Railway

Effective August 1, 1919, the agreement included the Winnipeg Joint Terminals and the Toronto, Hamilton and Buffalo Railways. It was under the pressure of the First World War that in Wage Agreement No. 1, the Railway Shopcrafts established national rates from end of Canada to the other for skilled tradesmen. After the War, Wage Agreement No. 6 was signed between the Railway Association of Canada and Division No. 4 of the Railway Employees' Department. It was effective May 22nd, 1922. This was the beginning of collective bargaining with Division No. 4, R.E.D. and Canada's railways.

We cite this history to establish the fact that prior to certification through a Government Board, nation-wide collective bargaining had taken place and was a fact on Canada's National Railways. In circumstances where organizing and maintaining a union were much more difficult than today, the railway workers acting on their own, used every means possible to establish national standards, rates of pay, seniority rights and other benefits from one end of Canada to the other.

This was a natural development and it followed the natural economic organization of the railways themselves. Today, with Bill C-186 we are confronted with legislation which would enable minority groups to legally destroy what has been built, by the majority, over a seventy-year period.

We point out too that in these early agreements, the rights of the employees to their own language was formally recognized. As far back as December 1st, 1919 in Wage Agreement No. 4, we recognized the rights of the French language for apprenticeship training in our collective agreement. On page 16, Rule 40 states as follows: "All apprentices must be able to speak, read and write the English language (or French in the Province of Quebec, and understand at least the first four rules of arithmetic." This recognition of French Canadian rights is carried on today in the local lodges which are composed of French and English speaking members who work in the CPR and CNR shops in the Province of Quebec. They elect French speaking officers and the business of the lodge is carried out in French or English as decided by the membership.

These developments are the foundation on which collective bargaining takes place on the railways today.

We are deeply concerned that the proposals put forth in Bill C-186 would destroy the collective bargaining relationship which has been established over a long period of time on Canada's railways. We do not have to tell this Committee the difficulties Canada would face economically if the units appropriate for collective bargaining on the railways were to be fragmented. Yet, despite the denials of the Minister of Labour and the written assurances of the Prime Minister who stated in a letter dated January 26, 1968 to Mr. B. Mathier, M.P., "The Government has confidence in the Canada Labour Relations Board and fully expects that, in exercising the power it now holds, in the future, the economic viability of national bargaining will not be disrupted." If this is so, then why is it necessary to proceed to amend Section 9 of the Industrial Relations and Disputes Investigation Act by adding Section 4-A whose purpose is to, "clarify the powers of the Board to determine that employees in one or more self-contained establishments or in one or more local, regional or other distinct geographical areas within Canada constitute a unit that is appro-

appropriate for collective bargaining." To us it is perfectly obvious that should this amendment carry, then the Canada Labour Relations Board would be obligated to certify as units appropriate for collective bargaining groups of employees based on a single shop or a geographical area. Because one of the geographical areas would be the Province of Quebec, then the division, in fact, would be a linguistic and cultural division. If this were not so, then why is the amendment being proposed. The Canada Labour Relations Board has already the authority to certify units which are not national in scope, under Section 9 unamended, and the Board has certified such units—employees of grain elevators, regional airlines such as Transair, Nordair and Eastern Provincial Airways, to name a few.

We strongly object to the provision of an appeal board as proposed under Section 61A. In our opinion this destroys the value of the Canada Labour Relations Board and gives those who want to fragment national bargaining units another bite at the cherry. If the CLRB denies their application, it could be appealed. Conversely, if the Board were to grant an application, the loser would also appeal. Why have a representative Board if two individuals outside the Board plus the Chairman or Vice-Chairman have the power to set aside a decision arrived at after proper consideration? What new factors would govern the conduct of the members of the Appeal Board? We suggest that this Appeal Board would be in a position to make politically expedient decisions rather than decisions based on justice and the best interests of all Canadian workers. The prospect of endless appeals to this tribunal would wreck the collective bargaining process which takes place with regularity on Canadian Railways. Collective bargaining is painfully slow under the present circumstances. It would be infinitely worse if during negotiations the bargaining process is plagued with appeals to the Appeal Board.

Arguments have been put forward that these changes to the Industrial Relations and Disputes Investigation Act are required to give the CNTU a feeling that "not only must justice be done, but justice must also seem to be done." When has this not been the case?

The application made by the CNTU for employees of the Angus Shops (CPR) in Montreal and the findings of the CLRB, provide a solid refutation for many of the wild

and unfounded charges with respect to the treatment of French speaking workers on Canada's railways.

Only after thorough investigation and lengthy hearings did the CLRB throw out the application of the CNTU. It should be noted that the Board consisted of Chairman A. A. Brown, Messrs. A. H. Balch, E. R. Complin, A. J. Hills and G. Picard. The decision of the Board was unanimous. It is worth noting that Mr. Picard, the representative of the CNTU, participated in this decision. We should also note that Mr. Donald MacDonald, the acting President of the Canadian Labour Congress, and an official member of the CLRB, did not participate in the formulation of the decision by the Board. We contend that in this instance "not only was justice done but it also seemed to be done."

The arguments which have been presented in support of Bill C-186 have been examined previously by the CLRB when it had before it the application of the CNTU to represent the employees in the Angus Shops, Montreal. We wish to quote from the written reasons given by the Board because they have dealt with most of the points raised. In their reasons for their decision, dated January 5, 1967, the Canada Labour Relations Board stated on page 5:

"According to the evidence given, Division No. 4, Railway Employees' Department of the United States was first established in 1918 in order to provide and afford complete autonomy to the Canadian divisions of the unions comprising the said Department in collective bargaining on behalf of the railway shop craft employees they represent with Canadian railroads and this autonomy has been fully and solely exercised by said Division 4 since that time."

THE CLRB FOUND THAT THE INTERNATIONAL UNIONS REPRESENTING CANADIAN RAILWAY WORKERS ESTABLISHED MACHINERY FOR, AND HAD EXERCISED COMPLETE AUTONOMY IN COLLECTIVE BARGAINING SINCE 1918.

"By virtue of the seniority provisions established under the collective agreements between the Intervener, Division No. 4, Railway Employees' Department, and the Respondent, shop craft employees have regional trades seniority which may be exercised by the individual employee for example between

Angus Shops and all other railway repair and maintenance shops in the Atlantic Shops Region of the railway system. Where such seniority rights are exercised by the employee to fill a vacancy or displace a more junior employee in another shop the employee carries his seniority with him to the new posting.

"The effect of a certification of the applicant as bargaining agent for the proposed separate unit of Angus Shops craft employees would be that these seniority provisions would no longer apply so as to permit transfers of employees thereunder between the Angus Shops and other repair and maintenance shops in the system. This would affect the established interests and seniority rights not only of employees in the Angus Shops, but also of the employees in the other shops in the Atlantic Region in particular as well as transfers between back shops."

THE CLRB FOUND THAT FRAGMENTING OF THE BARGAINING UNIT WOULD DESTROY THE SENIORITY RIGHTS NOW ENJOYED BY CANADIAN WORKERS.

"Wage rates standards are the same for tradesmen in all railway repair and maintenance shops across the system. All shop tradesmen in the same classifications are paid the same wage rates and enjoy the same fringe benefits, and work under common conditions of employment under the provisions of the collective agreements in effect."

THE CLRB FOUND THAT NATIONAL BARGAINING HAD ESTABLISHED CANADA-WIDE WAGE RATES AND THAT SHOP TRADESMEN IN THE SAME CLASSIFICATIONS ARE PAID THE SAME RATE AND ENJOY THE SAME FRINGE BENEFITS.

We made the following submission before the Board:

"The Interveners submit that the proposed unit is inappropriate for collective bargaining, that the certification of the unit as requested would be against the best interests of the shop employees including the loss of seniority rights and would be a seriously retrogressive step in collective bargaining in the railroad industry in Canada. The Interveners submit that from the point of view of the interests of the general public, the fragmentation of the established system wide unit

of shop crafts employees resultant from the recognition of the proposed Angus Shops unit as a separate bargaining unit and the designation of the Applicant as the bargaining agent therefor would have the effect of establishing two competing bargaining agents each of whom would be representing a separate group of employees in the same classifications and doing the same type of work under similar conditions with whom the Respondent would be compelled to bargain. The end result would be to create a competitive bargaining situation as between the two bargaining agents which would be destructive of orderly and realistic collective bargaining in respect of employees in the maintenance and repair department of the railway. This would tend to create and would result in work stoppages affecting the operation of the entire railway system. The Respondent advances serious arguments to the same effect. The Board is of the opinion that this analysis of the probable effect of certification as applied for is realistic."

THE CLRB AGREED WITH OUR ANALYSIS.

"The Applicant, has made the following assertions in the written statements put forward with its application for certification and in its reply to the interventions filed by the Interveners to its application, namely, that the present setup of employees working for the same employer in the same shop divided into different bargaining units is not capable of settling the employees's problems, that the great majority of Angus Shops employees are French-Canadian and should be represented by full time representatives who speak their mother tongue and that the realities of this situation were not understood by the leaders of the Intervener unions, and finally that a cultural unit can justify, apart from all other considerations, the formation of a separate unit.

"NO EVIDENCE WAS PUT FORWARD BY THE APPLICANT SUPPORTING THESE ASSERTIONS." (emphasis ours)

The Interveners have put forward evidence also as to the procedures for the handling of grievance of employees in the Angus Shops through the local lodge representatives of each of the associated craft unions in the shops for settlement at that level and the procedures followed in the

processing of grievances unsettled at the shop level to higher levels of union and management representatives which are applicable without distinction to grievances of shop employees in railway shops across the system. The Interveners have given detailed evidence establishing that a substantial majority of the officers of the local lodges encompassing the Angus Shops employees, and of the Brotherhood of Railway and Steamship Clerks with respect to local lodges encompassing the stores employees involved in this application, as well as the local lodge committeemen of these unions in the shops and stores, are French-Canadian and that a considerable number of the representatives who are not French-Canadian are bilingual. Evidence was also given of the considerable number of officers at regional chairmen and higher levels of these unions who are French-Canadian. The Shop committees of these Lodges are comprised of employees working alongside their fellow craftsmen in the shops."

"NO EVIDENCE HAS BEEN FURNISHED BY THE APPLICANT TO INDICATE THAT THE FRENCH-CANADIAN EMPLOYEES IN THE SHOPS OR STORES HAVE BEEN DISCRIMINATED AGAINST OR DENIED THE OPPORTUNITY OR MEANS OF SELF-EXPRESSION OR FULL PARTICIPATION IN THE CONDUCT OF UNION AFFAIRS INCLUDING THE HANDLING AND PROCESSING OF THEIR GRIEVANCES AS EMPLOYEES. IN FACT THERE WAS POSITIVE EVIDENCE GIVEN BY THE INTERVENERS TO THE CONTRARY." (emphasis ours)

"To summarize, the Board taking into consideration, inter alia, (1) that the great majority of the employees in the proposed bargaining unit are presently part of a well established system wide bargaining unit composed of some 10,000 to 11,000 employees employed in railway maintenance and repair shops in the maintenance and repair of the railway rolling stock and motive power units in the Angus Shops at Montreal, Que., the Weston Shops at Winnipeg, Man., the Ogden Shops at Calgary, Alta., and in some 68 light running repair shops situated at points across the railway system of which Division No. 4, Railway Employees' Department, comprising seven craft unions is the present bargaining agent,

(2) that the operations upon which these employees are engaged are an integral and integrated part of the operation of the railway system as presently carried on, (3) that the employees in the craft classifications employed in these shops receive their craft training under a standard system-wide apprentice training program and share a close community of interest and work under a substantially uniform system of wage rates and working conditions across the system and enjoy the benefits of a regional seniority system which could no longer operate effectively in the interests of the employees in the regional group affected thereby as a whole in event of the exclusion of the Angus Shops group therefrom, is of opinion that a unit of craft employees confined to the Angus Shops alone is, in the circumstances, too limited in scope to be appropriate for collective bargaining. The simple fact that a majority of employees in a bargaining unit shaped by an applicant trade union with a view to securing certification as bargaining agent thereof, desire to be thus separately represented in collective bargaining, does not ipso facto establish that the unit is the appropriate unit for collective bargaining without regard for other considerations. The Board is of opinion that no convincing reasons have been advanced to warrant the disturbance of the existing system wide bargaining unit by the fragmentation thereof as proposed by the Applicant."

We have cited from the decision of the Board which, after lengthy investigation into the application, found that the charges made by the CNTU that the interests of the French-Canadian membership were not being looked after by the International Railway Unions were false. The CNTU itself advanced no evidence to support its argument that cultural and linguistic commonalities should form the basis on which the Canada Labour Relations Board makes a decision as to the appropriateness of a unit for collective bargaining. If the CNTU had had a case they would have submitted evidence. They chose not to do so because they had no case.

We are satisfied too that should these amendments be approved and become legislation then the collective bargaining process would be jeopardized and the possibilities of a peaceful solution in the next round of bargaining would be drastically reduced. As members of the committee know, the railway agreement expires this year and we will be in

negotiations with the Railways this Fall. If the threat of possible regional certification hangs over the bargaining table, then regional self-interest may become predominant and pressures will inevitably build up which will nullify the bargaining process. For this the government will have to bear full responsibility. We know that statements have been made that this would not apply to the railways. This legislation proposes to become the law of the land. It will apply equally to all parts of the country and to all industry and workers now within the jurisdiction of the Industrial Disputes and Investigation Act. If the Prime Minister and the Minister of Labour mean

what they say, then we submit that the Bill ought not to be reported out of this committee but should be allowed to die a peaceful death.

Respectfully submitted,

William Cameron
President, District Lodge No. 2
INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AERO-
SPACE WORKERS

MARCH 7, 1968.

APPENDIX XVIII

BRIEF TO
THE COMMITTEE ON LABOUR AND
EMPLOYMENT OF THE
HOUSE OF COMMONS
SUBJECT: BILL C-186

March 7, 1968

These representations are from a Committee of the Canadian Labour Congress composed of delegates from the following affiliated unions:

Américan Federation of Grain Millers
Brotherhood of Railway Steamship Clerks,
Freight Handlers, Express and Station
Employees
Canadian Airline Dispatchers Association
Canadian Airline Employees Association
Canada Brotherhood of Railway, Trans-
port and General Workers
Canadian Maritime Union
Canadian Merchant Service Guild
International Association of Machinists and
Aerospace Workers
Saskatchewan Wheat Pool Employees'
Association

Some of these unions may present a separate brief to this committee. The views in this brief are the views of a representative committee of these organizations which covers the transportation field other than railways, and miscellaneous segments under federal jurisdiction such as the grain millers and wheat pool employees.

While Bill C-186 may have had its genesis in the demands of the CNTU on the federal government because they were unsuccessful in their attempt to fragment national bargaining units on the CPR and the CBC, nevertheless, the passage of this Bill could create unnecessary divisions in the fields these organizations represent. These fields are outside the railways and the CBC.

We wish to state at the outset we are strongly opposed to Bill C-186. We consider it an attempt to appease a minority union group at the expense of the vast majority of Canadian workers.

The CNTU have made it quite clear that they are asking for legislation which will permit them to fragment already existing national bargaining units. This was the whole tenor of their brief to this committee.

They have based their case, as has the government, on so-called "freedom of association". The Canadian labour movement has fought for over 100 years to establish the right to freedom of association. This does not mean that special interest groups or minorities should have the right to harm the interests of the majority. Since its inception in 1921, the CNTU has been a religious labor body of French speaking workers. Later it dropped its basically religious orientation and became a linguistic and culturally oriented labour body. It has never commanded the support of a majority of the French speaking workers in the province of Quebec. Today it is still seeking a special status and favored legislation.

We point out to the committee that in 1966 the unions affiliated to the CLC represented 73.9 per cent of the organized labour movement in Canada and the CNTU 10.9 per cent. In 1967 the CLC represented 75.5 per cent while the CNTU dropped to 10.3 per cent. In other words, the CLC gained 1.6 per cent in membership while the CNTU dropped .6 per cent. Put another way, the CLC gained 168,580 new members during 1967 while the CNTU gained 9,386. The total gain in new members in one year by the CLC of over 168,000 nearly equals the total membership of the CNTU of 198,000.

We also point out that in the 47 years of their existence they have not won the support of the majority of the organized workers in Quebec, nor have they made an impact of any consequence in provinces outside Quebec. Bill C-186 will apply to all of Canada under federal domaine and in our opinion will enable minority groups, who place more value on

sectional or regional interests, to apply for bargaining rights and certification to cover a part of a national bargaining unit. This is the clear intent of the amendment proposed to Section 9 (1) of the Industrial Relations and Disputes Investigation Act known as (4a) which states:

"(4a) where the business or activities carried on by an employer are carried on by him in more than one self-contained establishment or in more than one local, regional or other distinct geographical area within Canada and an application is made by a trade union for certification under this Act as bargaining agent of a proposed unit consisting of employees of that employer in one or more but not all of those establishments or areas, the Board may, subject to this Act, determine the proposed unit to be a unit appropriate for collective bargaining."

It has been acknowledged before this committee that the Canada Labour Relations Board has wide discretionary powers under Section 9 of the Industrial Relations and Disputes Investigation Act, to certify local, regional or national bargaining units. There is ample evidence to show that it has certified local, regional and national units wherever there were valid reasons for doing so. Why then is there any need to amend that Section of the Act?

This amendment, which states specific criteria that the Board should use, may require it to re-evaluate previous decisions should it be confronted with new applications for units which it had previously deemed to be inappropriate for collective bargaining. The Minister of Labour has stated on page 19 of the Minutes of this committee dated January 9th, 1968:

"I certainly think it is a legitimate and understandable desire for French speaking employees of the CBC French Language System to want to organize their own independent French language union or unions, to want to live and work where French culture predominates and to so direct their thinking. You cannot begin to work in cultural and educational programs without having feelings one way or the other. And if you believe in the right of association, all things being equal, it would be normal to agree that if the majority of a group wanted to form a union to bargain for them they should be allowed to do it."

The Minister on page 41 of the same Minutes stated:

". . . I think the circumstances are quite different from a shop in a railway system." in referring to the employees of the CBC on the French network. Yet he refused to withdraw the Bill.

We are thus confronted with a situation where the Board may feel impelled to certify groups on airlines, steamship lines as well as railways who apply to represent a unit based on local, regional or geographical areas. It may be possible to fragment national bargaining units which have been in existence for decades.

Such national bargaining units have been immense value to the Canadian worker. It has enabled him to establish national rates of pay and working conditions from one end of Canada to the other. It has enabled him to wipe out the regional disparities which existed before national rates were established. In an economy where the worker in Quebec was low man on the totem pole, national bargaining has elevated him to an equal status with his counterpart in British Columbia, Ontario and the Maritimes.

We find the proposed Section 58B to be unnecessary. There is no need for the CLRB to sit in divisions or panels on the grounds that the present Board is overworked. As it is, the Board is only required to sit two or three days per month. The implication that divisions or panels of the Board are required to give a sense of equality to the CNTU when they appear before the Board we also consider unnecessary. It is a reflection on the integrity of the present members of the Board, employer and employee nominees alike, and on the chairman as well.

We find particularly objectionable the reflection cast on the integrity of Donald MacDonald the Acting President of the CLC and a member of the Canada Labour Relations Board by Mr. Nicholson in the House of Commons and this doubt repeated by Mr. Marchand, Minister of Manpower and Immigration, in the same debate. We are satisfied that all members of the CLRB have discharged their responsibilities fairly and have administered the laws of Canada in accordance with their oath of office. We consider the attack on Mr. MacDonald and the other members of the Board by two Cabinet Ministers unprecedented in recent Canadian history. No valid argu-

ment has been put forward to justify the proposed changes to the Board.

The proposal to establish an Appeal Board 61A (1) is a backward and dangerous step. It can tie up unions in endless appeals and make more difficult than ever the organizing of the unorganized. As anyone who has ever organized a new group of workers knows that delay allows those opposed to organization to bring pressure, direct and indirect, against the employees who want to join a union. This is recognized in the provisions of all Labour Relations Acts, none of which allow appeals and provide for the speedy processing of an application.

In addition, the collective bargaining process will be made more difficult if the threat of fragmentation hangs over the negotiations. It is conceivable that a regionally oriented group, thinking they have the leverage to obtain a better deal for themselves, could organize and apply for certification in the early stages of negotiations. The right of appeal would make a peaceful settlement more difficult because even if the Board were to follow past practice and refuse to break up a national bargaining unit then the Appeal Board would hold out hope to this group. Thus the Appeal procedure would contribute to industrial unrest without improving the

judicial process. How can two persons who are not representative of industry or labour make a better assessment of a case or make a better evaluation than a larger and fully representative Board? Clearly justice would not necessarily be done nor seem to be done.

We wish to point out that many changes are required in Canada's labour legislation to keep it abreast of changing conditions in industry. The rate of technological change has been so rapid that it alone has been the cause of many industrial disputes. A Royal Commission headed by Justice Freedman has made some excellent recommendations. The government, despite the urgency of these matters, has referred the question to the Task Force on Industrial Relations and has deferred any new labor legislation until the Task Force reports. Why the haste to introduce Bill C-186? Surely this is not a wise course of action. This legislation was sought by a very small section of the labour movement.

We urge that Bill C-186 be rejected by this committee in the best interests of the overall needs of Canadian workers.

Respectfully submitted

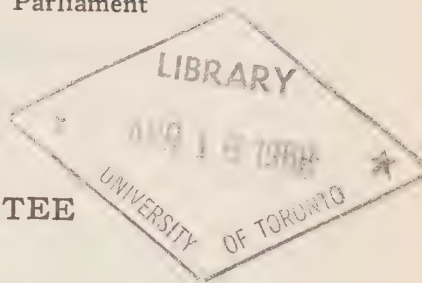
Mike Rygus
CHAIRMAN

Special Committee of the CLC

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament

1967-68



STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act

TUESDAY, MARCH 12, 1968

WITNESSES:

Mr. J. F. Walter, Assistant Grand Chief Engineer and National Legislative Representative, Brotherhood of Locomotive Engineers; Mr. W. J. Smith, President, Canadian Brotherhood of Railway Transport and General Workers (CBRT and GW); Mr. J. H. Clark, President, Division No. 4, Railway Employees' Department; Mr. A. R. Gibbons, Executive Secretary, Canadian Railway Labour Executives' Association (CRLEA); *from the Brotherhood of Railway Trainmen:* Mr. M. W. Wright, Q.C., General Counsel; Mr. G. W. McDevitt, Vice-President; Mr. Paul LaRochelle, General Chairman.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE
ON
LABOUR AND EMPLOYMENT
Chairman: Mr. Hugh Faulkner
Vice-Chairman: Mr. René Émard

and

Mr. Allmand,
Mr. Barnett,
Mr. Boulanger,
Mr. Clermont,
Mr. Duquet,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,

Mr. Leboe,
Mr. Lewis,
Mr. MacEwan,
Mr. McCleave,
Mr. McKinley,
Mr. Muir (*Cape Breton
North and Victoria*),
Mr. Munro,

Mr. Nielsen,
Mr. Ormiston,
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Stafford—24.

Michael A. Measures,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, March 12, 1968.

(20)

The Standing Committee on Labour and Employment met this day at 11.08 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Leboe, Lewis, MacEwan, McCleave, McKinley, Ormiston, Régimbal, Reid—(16).

In attendance: Mr. J. F. Walter, Assistant Grand Chief Engineer and National Legislative Representative, Brotherhood of Locomotive Engineers; Mr. C. Smith, Vice-President, Brotherhood of Maintenance of Way Employees (BMWE), and also Chairman of Canadian Railway Labour Executives' Association (CRLEA); Mr. W. J. Smith, President, Canadian Brotherhood of Railway Transport and General Workers (CBRT and GW); Mr. J. H. Clark, President, and Mr. Paul Raymond, Vice-President, Division No. 4, Railway Employees' Department; Mr. A. R. Gibbons, Executive Secretary, Canadian Railway Labour Executives' Association (CRLEA).

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

The Chairman introduced those in attendance.

Mr. Walter gave an oral summary of the brief of the Brotherhood of Locomotive Engineers, copies of which had been distributed to the members. (The brief is printed as Appendix XIX in this Issue.)

Messrs. W. J. Smith, Gibbons and Walter were questioned.

The questioning having been completed, the Chairman thanked Mr. Walter and at 1.08 p.m. the Committee adjourned to 3.30 p.m. this day.

AFTERNOON SITTING

(21)

The Committee resumed at 3.51 p.m., the Vice Chairman, Mr. Émard presiding.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Leboe, MacEwan, McKinley, Ormiston, Régimbal, Reid—(11).

In attendance: Same as at the morning sitting, except Mr. Walter.

Mr. W. J. Smith was questioned.

At 4.06 p.m., Mr. Faulkner took the Chair.

Mr. Gibbons and Mr. W. J. Smith were questioned, assisted by Mr. Clark.

The questioning having been completed, the Chairman thanked those in attendance.

At 6.14 p.m., the Committee adjourned to 8.00 p.m. this day.

EVENING SITTING

(22)

The Committee resumed at 8.22 p.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Leboe, MacEwan, McKinley, Munro, Reid—(10).

In attendance: From the Brotherhood of Railway Trainmen: Mr. M. W. Wright, Q.C., General Counsel; Mr. G. W. McDevitt, Vice-President; Mr. Paul LaRochelle, General Chairman.

The Chairman introduced those in attendance.

Mr. Wright read, with supplementary interjections, the brief of the Brotherhood of Railway Trainmen.

Mr. Wright was questioned, assisted by Messrs. LaRochelle and McDevitt.

The questioning having been completed, the Chairman thanked those in attendance.

At 10.29 p.m., the Committee adjourned to the call of the Chair.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Tuesday 12 March, 1968.

The Chairman: Gentlemen, I see a quorum. The procedure this morning will be that Mr. J. F. Walter who is the Assistant Grand Chief Engineer and national legislative representative of the Brotherhood of Locomotive Engineers, will present his brief. Following that we will have a general cross-examination of the brief submitted by the Canadian Railway Labour Executives' Association and others. You may address your questions, of course, to any member of the panel.

The only new witness is Mr. Paul Raymond, who is the Vice-President of Division 4, Railway Employees' Department. I think you know the other witnesses. We welcome you back, gentlemen, and with some luck we may even conclude today.

Mr. Walter, would you like to summarize your brief? We then will start the cross-examination.

Mr. J. F. Walter (National Legislative Representative Brotherhood of Locomotive Engineers, Canadian Railway Labour Executives' Association): Thank you, Mr. Chairman and members of the Committee. I will do my best to summarize this brief. I believe in the drafting we have summarized it to some extent.

The first page deals with a very brief history of our Brotherhood. We included this to demonstrate that we have been in business for some time, and during that time we have successfully dealt with conditions relating to locomotive engineers, whether they be in Quebec, British Columbia or any other province in Canada.

•1110

During this time we have been an independent union or, at least, an unaffiliated union. I mention that because it has some bearing on one of the points I want to make in this brief.

One of the early and most important gains of our Brotherhood was the establishment of seniority rules. Seniority districts were

defined to coincide with the operating regions of the railways and to this day they remain substantially unchanged. Locomotive engineers thus gained job security, mobility and a degree of stability unknown at the time in other industries. Quebec-based locomotive engineers held rights—and still do—to work on lines of the railways extending into bordering provinces and, for that matter, into the United States.

We go on to say that this pattern was repeated across the country and we are still solving problems within our organization today which involve running rights of locomotive engineers who may be located at distinct or indistinct geographical regions across the country. For instance, at the present time we have a general committee meeting in session in Montreal and one of the things they hope to decide on is the division of jurisdiction of the territory between engineers who work in Smiths Falls, Ontario, and run into Montreal; those who work out of Quebec City and run into Montreal; others who work in the Montreal terminal, and still another seniority district that operates Quebec from Farnham into Montreal. These four seniority districts in the Montreal terminal have the right to work in the Montreal terminal, and because of centralization of Canadian Pacific's operations in the Montreal terminal area there have been disputes—there is a dispute now—as to how this matter will be solved.

The record will show that officers of our organization participated in the development of federal labour legislation and worked for its adoption. We will continue to work for any legislation which will improve labour-management relations. Bill C-186 is not such legislation.

Gentlemen, the record I referred to is the *Minutes of Proceedings and Evidence* of the Standing Committee on Industrial Relations for Wednesday, June 4, 1947, as well as the proceedings for June and July of 1947. I suggest that this would be good reading for any member of this Committee. It demonstrates

quite clearly that the problem in the original drafting of the legislation was to find a way to successfully balance power between labour and management. The problem then was not to balance power between labour and labour management, but simply between labour and management. This has been done in the present Act and it has worked successfully over the years, as far as we are concerned, from the standpoint of an independent union.

The next page basically deals with the various points in the proposed legislation and in the present legislation with respect to defining bargaining units. That information was presented to you at earlier meetings and I do not think there is any point in dealing with it now.

I have outlined on page 2 the broad powers of the Board. There seems to be no legislative need to clarify the powers of the Board under section 61 in so far as section 9 (1) and section 3 (2) are concerned.

• 1115

Section 61 gives the Board the authority to decide "any" question as to whether a group of employees is a unit appropriate for collective bargaining. Construed along with the language in section 2 (3) that an appropriate unit can be "any other unit", it seems clear that the Board already has sufficient powers to address itself to the issue in clause 1 of the Bill, that is, where a business is carried on "in more than one self-contained establishment or in more than one local, regional or other distinct geographical area within Canada...the Board may...determine the proposed unit to be a unit appropriate for collective bargaining". It is our submission that the Board can now do precisely that. It is true that with respect to the railway industry the Board has generally refrained from adopting a local or regional view of the appropriate unit for this industry. But the Board has not taken this view because it lacked the capacity to act for local or regional units—in a few cases it has where the convenience or special facts were overwhelming. The Board has come down squarely for national bargaining units for national industries because it is sound labour relations. The explanatory note to the amendment proposed in clause 1 of Bill C-186, we think, a not too subtle attempt to present the issue as a deficiency in the Board's powers rather than face up to the fact the government disagrees with the Board's concept and jurisprudence of

national bargaining units. Clause 1 of the Bill is a policy directive, not a grant of necessary powers to the Board. The Board's powers runneth over. What the government wants is to tell the Board when and where to pour them.

The language employed in clause 1 of Bill C-186...

Mr. McCleave: Some other cups are doing the same thing these days, Mr. Walter.

Mr. Walter: The language employed in clause 1 of Bill C-186 is somewhat curious. We refer specifically to the second group of businesses which qualify under the clause. These are those businesses which are carried on "in more than one local, regional or other distinct geographical area within Canada". The more natural language which could have been used to express the catch-all category would have been—in more than one local, regional or other geographical area. The use of the word "distinct" adds nothing to the phrase "geographical area"—either an area has a geographic definition or it has not. In our view the word "distinct" was inserted so the Board would look at other non-geographic considerations of a distinctive nature. At best, the word "distinct" is redundant; at worst, insidious. It may be the interpretative peg on which the policy hangs.

I would now like to digress for a moment. I do not want to put undue emphasis on this type of an argument, but I would like to point out to the members of the Committee that once before the railway unions were faced with a matter that involved an interpretation of section 182 of the Railway Act. In this particular case we were endeavouring to get compensation for railway employees under a section of the Railway Act which we thought gave railway employees compensation when a portion of the line was moved or abandoned. Mr. Justice Cartwright in his decision on the case, stated, referring to section 182, "The section does not appear to have been drafted by a meticulous grammarian", and this is the case here.

Mr. Lewis: That is not unique, either.

Mr. Walter: I am sorry if I am unable to bring unique cases to this Committee, but I am pointing it out to the Committee to demonstrate our concern about the wording of Bill C-186.

The evidence given before this Committee does not point to abuse of the Board's powers

or bias towards any union. The situation is really to the contrary. A case in point was an application made in 1958—Canada Labour Relations Board file 766-936.58—if anyone would care to look it up.

Mr. Lewis: If I may, Mr. Chairman, was this affiliate the Brotherhood of Firemen and Enginemen?

Mr. Walter: The Brotherhood of Locomotive Firemen and Enginemen. A case in point is an application made in 1958 by an affiliate of the Canadian Labour Congress. In this particular case the C.L.C. affiliate applied for certification on the Quebec Central Railway, but the Board rejected the application on the basis that the proposed unit was not appropriate inasmuch as it formed part of the Canadian Pacific system. We see two important aspects in the Board's decision. First, it preserved the strength of the engineers on the Quebec Central in bargaining with Canadian Pacific engineers as a part of the whole system, thus taking the employees out of the realm of regional bargaining. It also preserved the right of engineers on the Quebec Central to representation on the General Committee of the Brotherhood of Locomotive Engineers in Eastern Canada, thereby maintaining the method of selling jurisdictional disputes which arise from time to time between engineers on different seniority districts of a railway system. Second, it showed that the CLC affiliate had no special status with the Board despite its composition. The decision supported the position taken by a non-affiliated union—which we were and still are—against the position taken by a CLC affiliate which would have fragmented a national bargaining unit. It was a decision against CLC organizational interests, and a decision in favour of sound labour relations.

• 1120

Clause 5 of Bill C-186 provides for the creation of an appeal division of the Board. The explanatory note to the clause says that it is new. From the point of view of the usual structure of labour-management matters it certainly is. At the resolution stage of this Bill Mr. Marchand made an eloquent plea to recognize the fact that labour and management are chosen on a parity basis to serve on labour relations boards because each member represents special interests. He also felt that the representative character of labour relations boards should be maintained, and that can be found in *Hansard* at pages 5002 and 5003.

In the appeal procedure provided for in clause 5 of this Bill two persons, representing the general public, may be appointed by the Governor in Council to hear and determine appeals under section 61A(1) of the proposed amendment. These two persons, in conjunction with the chairman or the person exercising the powers and functions of the chairman under section 58A, shall constitute the appeal division. Under proposed section 61A(2) a majority decision is binding. The power of appointment of these two persons lies with the Governor in Council. The Bill does not provide any indication as to whether the two persons shall be permanently appointed or appointed on a case-to-case basis. It also seems logical that the government will have to shop around to find two persons who are in agreement with the concept of regional bargaining units as expressed in clause 1. I might suggest where they could shop to get them, if that would be helpful. To do otherwise would be to defeat the intent implicit in that clause. It also ensures that the regional concept will have a majority in the appeal division. The issue is simple. Either one agrees that local or regional bargaining units are, in general, in the national interest in pan-Canadian enterprises or they do not. The Chairman may hold whatever view he likes, but the two persons appointed from the public obviously cannot have a contrary view to that implicit in the statute if Parliament's will (assuming the Bill passes) is to be given effect. In other words, the Bill forces the government to enquire into the views of its nominees in order to give effect to the directive it is incorporating into law. It would be ludicrous to appoint someone who has a contrary view as that person would be constrained by conscience from giving effect to Parliament's intention.

We reject this proposed appeals division because it violates Mr. Marchand's own principle that the best labour-management structure are those in which the parties interested are represented. It also tends to give the public interest inordinate attention because two members are appointed from the public. It is our submission that the public interest in labour-management relations lies in a policy and practice which ensures equal justice to the parties, labour and management, consistent with equal rights to self help. I think the record of the Standing Committee of 1947 which I mentioned, points this out very well. The public ought not to be the decisive factor

in which union, regional or national, is best suited to advance the interests of union members. A properly constituted labour relations board with representatives from both labour and management is the best vehicle to decide which unit, regional or national, is best to advance the interests of union-minded men. The public interest is adequately represented by the Chairman on the Canada Labour Relations Board. The appeal division is an attempt to "pack the court". It is a rule of men, carefully screened, and not of law.

Our organization takes the view that to, in effect, by-pass the Canada Labour Relations Board on the matters raised in clause 1 of the Bill is to set up an almost predictable bias in the government's nominees in place of what can only be demonstrated to be a mathematical basis in the fact that there is only one representative of the Confederation of National Trade Unions on the Canada Labour Relations Board.

• 1125

The Minister of Justice, Mr. Trudeau... I speak here of the Minister of Justice, not Mr. Trudeau the candidate. I say that because I understand...

The Chairman: There is no distinction.

Mr. Walter: There is no distinction. I make that point because, as I understand it, this bill is presented to the Department of Justice for authorization before it is dealt with as proposed legislation.

In any event, Mr. Trudeau strongly advances the proposition that functionalism is a basic conception in any possible redistribution of powers under the British North America Act. We are not advancing the proposition that this Bill redistributes any powers in the field of labour relations. But what it does do is highlight regional aspirations by means of the policy directive contained in clause 1 of the Bill. This step could well be a start in a breakdown of federal jurisdiction. The question is whether or not this is functionally sound. On the railways the interdependence of the workers' functions, the similarity of their jobs, the interrelation of seniority provisions, and the settling of national wage rates, all tend, functionally, to advance the concept of the national bargaining unit. The economic functionalism of the railway system lies in the fact that they are systems. They are not self-contained islands, disparate and unrelated.

The stake of the people in effective and harmonious labour relations on Canada's railways is enormous. We recognize that. The normal tensions of what are fair and just wages and working conditions are great enough. To add to this competitive, interunion pressures based on local or regional units with a multitude of contract-ending dates is, in our view, to fly in the face of Mr. Trudeau's principle of functionalism. The simple test is: will it work? We cannot see how harmonious labour-management relations on Canada's railways can be advanced by fractions which will inevitably lead not to functionalism but to factionalism. Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Walter, for a very interesting brief. Is there anything else to be said at this point or can we now get into the questioning? I have Mr. Ormiston, Mr. Régimbal and Mr. Clermont on my list. Mr. Ormiston?

Mr. Ormiston: Mr. Chairman, I should like to begin by asking a few questions of my friend Mr. Smith. We have been waiting some time to hear from him, and I want to say we appreciate the contents of his brief and his patience in coming back to discuss it with us.

Mr. Smith, the day you made your presentation I took some notes and I would like to start with some general questioning, and later I will probably have some specific questions. I know you will not have to refer to your brief because you have all this at your finger-tips.

First of all, with regard to joint negotiations, you say you joined with 17 or 18 other railway unions in negotiating agreements with railway companies. I would like to ask if yours was the largest group among them?

Mr. W. J. Smith (President, Canadian Brotherhood of Railway Transport and General Workers): The largest single union.

Mr. Ormiston: Yours was the largest group among the other affiliated groups?

Mr. W. J. Smith: Of course there are groupings of other unions but referring to the single unions, out of the 17 I would say that ours was the largest, yes.

Mr. Ormiston: Do you have more influence because of the size of your union?

Mr. W. J. Smith: No.

Mr. Ormiston: You do not. Have the joint negotiations ever been a hindrance in formulating demands or in negotiating demands?

• 1130

Mr. W. J. Smith: It all depends, of course, upon what you mean by "hindrance". You must understand, of course, that in a large industry that spreads across the length and breadth of this country there are many divergent groups of workers' interests involved, so that sometimes we have quite a bit of difficulty in agreeing upon a set of common demands to submit to the railway management and on which to negotiate contracts. However, we have been able to harmonize our viewpoints to a degree and to present a united front.

Mr. Ormiston: Would the addition of the CNTU to the group be of any significance?

Mr. W. J. Smith: Most decidedly. I think it would make it utterly impossible to get together because of the distinct opposing objectives which the CNTU has from the other 17 established railway unions.

Mr. Régimbal: Could you elaborate on that?

Mr. W. J. Smith: I will elaborate on it in this way. We have memberships across the whole length and breadth of the country and we endeavour to iron out a common level of objectives which cuts through many of the peaks and valleys in the interests—wage rates, working conditions and so forth—that prevail throughout this country and subsequently arrive at some level or set of objectives, whereas the CNTU has a single regional objective—Quebec—which obviously would not be in harmony with the over-all national interest because of the many variations in the national interest. This does not always even give us the highest degree of unanimity amongst our own people, but in the over-all national interest—the greatest good for the greatest number—we believe that it is essential to have these common objectives even though, as I said, they may cut right through the valleys and peaks of the various levels of rates of pay and working conditions that prevail in geographical, regional and provincial areas.

Mr. Ormiston: If I may interrupt, have you ever separated from your own group for bargaining purposes?

Mr. W. J. Smith: Have we ever separated from—

Mr. Ormiston:—from your own homogeneous group for bargaining purposes?

Mr. W. J. Smith: Yes.

Mr. Ormiston: Would you tell me in what instance?

Mr. W. J. Smith: We had one major group of railway workers who were not enjoying the universally established 5-day, 40-hour work week—the sleeping, dining and parlour car employees on the Canadian National and the Canadian Pacific. The government then introduced the Canada Labour (Standards) Code and set the 40-hour work week with minimum overtime hours, which meant that we handled them specifically and we met with railway management for the purpose of negotiating for that particular group to bring their collective agreement in line with the legislation of the Canada Labour (Standards) Code and with which all the others were in line. Do you understand?

Mr. Ormiston: Right.

Mr. W. J. Smith: For those reasons we separated and we had to negotiate the sleeping and dining car employees separately on our last round of negotiations.

Mr. Ormiston: Let us not start an argument, but if separate negotiation were successful for you, why then could the CNTU not do the same?

Mr. W. J. Smith: This brings us back to my original point, the original question and answer. This was a national objective because it applied to sleeping and dining car employees as did the Canadian Labour (Standards) Code. No distinctions were made in the Code between workers in one particular area who would have 48-hour week and workers in another area who would have a 40-hour work week. It said that all of its employees in the railway industry who came under the IRDI Act would be obliged to observe the 5-day, 40-hour work week regardless of where they worked in the country. It therefore had to be on a national basis, not on a regional basis.

Mr. Ormiston: I understand your point, Mr. Smith.

Mr. Lewis: May I ask a supplementary? Were your dining and sleeping car people in a national bargaining unit?

Mr. W. J. Smith: Yes, they were in a national bargaining unit, because obviously this was the only way we could handle the people who run through from Halifax to Montreal and from Montreal to Winnipeg and Vancouver.

• 1135

Mr. Ormiston: If you do not mind. I would like to make an observation on the submission of the Montreal Transportation Commission. When they appeared before this Committee it was mentioned that an important argument that was used in the case of the MTC recruiting for CNTU was that the dues should be kept in Quebec and not sent to a foreign country—namely, Ottawa. As far as you are concerned was the service to the MTC members satisfactory?

Mr. W. J. Smith: In my judgment, humble as it may be, this again is where labour relations are used for particular political interests.

Mr. Ormiston: Perhaps you could answer a specific question. Did the culture or the language have anything to do with MTC employees breaking away from the CBRT to join the CNTU?

Mr. W. J. Smith: No, it did not. It was only because the CNTU assured them they could get \$1 an hour increase when we were only asking for 52 cents. Apparently—their assurances at that time were backed by the Lesage government—the answer was obvious—because they got 65 cents when we had only asked for 52 cents, which proved that they were correct in that regard. This has had repercussions all the way through because again they have placed everybody on the spot. They placed us on the spot with the Seaway workers. If they could take membership away from our Brotherhood by getting them 65 cents an hour on the basis of making a demand for \$1, we had to prove to our Seaway workers that we could do just as well. The ILA on the Montreal waterfront had to prove that they could do as well or they would have suffered the same consequences.

Mr. Régimbal: Could that 13 cents differential be explained by the fact that possibly the labour and salary conditions in Montreal were, in fact, inferior to those in other cities?

Mr. W. J. Smith: Only to a degree. Our 52 cents, with a little bit of bargaining water,

could have brought us up equal to Vancouver and Toronto.

Mr. Lewis: Did you have a strike in that situation?

Mr. W. J. Smith: Of the Montreal tramways?

Mr. Lewis: Yes.

Mr. W. J. Smith: Yes, there was a strike for one week, which culminated, as I said, in a 65 cents an hour settlement. If I may repeat, the repercussions from that settlement placed every other trade union in the position where they had to do equally well or suffer the consequences which our Brotherhood suffered in connection with the Montreal tramways. It is as simple as that. The situation on the Montreal waterfront and the Seaway resulted from that settlement. I would like to repeat, if I may, that they have now negotiated another settlement—after a month-long strike and then a return to work on a compulsory arbitration basis—for another 68 cents. Mr. Lewis, if you or any of the rest of you think for one minute, that the Montreal waterfront workers are going to take anything less than 68 cents this time, then I would say that all of you are having a pipe dream, because they certainly are not. Our Seaway workers also come up for negotiation this spring and our Point St. Charles membership in the Canadian National Railways as well as our railway negotiations, come up this fall.

• 1140

Mr. Régimbal: Are you telling us the handwriting is on the wall?

Mr. W. J. Smith: Definitely; how can it be otherwise? Look at the Montreal tramways; they received a 68 cent an hour wage increase on top of the previous 65 cents. Our people at Point St. Charles in the Angus Shops will say, "Bill Smith, if you do not do just as well, we are kissing you goodbye." I am telling you that we are going to do just as well. We have to, if we hope to survive. This situation is being created by regional interest, both political and otherwise, being forced into industrial labour relations, where we have enjoyed a fair degree of harmonious relations.

Mr. Lewis: How long a contract is the most recent one on the MTC?

Mr. W. J. Smith: It is for a three-year period.

Mr. Lewis: Fine; 68 cents over three years. That is not quite as bad as it sounded at first.

Mr. W. J. Smith: It was 65 cents on two years and 68 cents on three years. That is \$1.33 in five years, and we will take \$1.33 in the railway industry right now for the next five years.

Mr. Ormiston: Mr. Chairman, I did not intend to open a can of worms this morning.

Mr. W. J. Smith: You have given me an opportunity to say some things that have been on my mind.

Mr. Ormiston: In order to improve your bargaining position, have you ever thought of merging with other railway unions?

Mr. W. J. Smith: Yes. We have this under...

Mr. Ormiston: With what practical result?

Mr. W. J. Smith: We have not had any practical results up to the moment because we have not got down to really trying. However, I assure you that as a result of direction from our Brotherhood Convention we are prepared to sit down, and we are undertaking to sit down, with other railway organizations with the object of trying to find a common ground upon which we could merge our forces.

Mr. Ormiston: I see. I would now like to get down to a few specifics.

Mr. Lewis: May I ask a supplementary on that, Mr. Ormiston? It may be interesting. Are some merger negotiations presently going on between several of the railway unions?

Mr. W. J. Smith: Yes, I believe so.

Mr. Lewis: Perhaps some of the other gentlemen would know more about that.

Mr. A. R. Gibbons (Executive Secretary, Canadian Railway Labour Executives' Association): In answer to Mr. Lewis's question, at the present time what we refer to as the "running trade organizations", such as the Brotherhood of Railroad Trainmen in the United States; the Order of Railway Conductors and Brakemen, who do not have any contracts in Canada; the Switchmen's Union of North America, who again do not have any contracts in Canada, and the Brotherhood of Locomotive Firemen and Enginemen, are well on the way in merger discussions. The discussions have been going on for some time. It is my understanding that by July 1 of this year they will have something to put out to the membership for ratification. In the non-op groups...

Mr. Lewis: If I may interrupt, that would leave only the locomotive engineers as a separate organization.

Mr. Gibbons: Right.

Mr. Lewis: In the running trades.

Mr. Gibbons: In the so-called running trades. I am told that in the non-operating group discussions are going on—it is no secret between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees and what we used to call the Order of Railway Telegraphers, which is now the Transportation-Communication employees Union. Merger discussions are going on between those two unions at the present time.

The Chairman: Mr. Ormiston, would you permit me to ask Mr. Smith a question arising out of the earlier cross-examination in order to clarify the record? The impression I got from your remarks about the effects of union rivalry on collective agreements is that wages and fringe benefits, everything that comes up at negotiating time, may be artificially stimulated by this rivalry. I would like to know if in your view of this situation, where the hand-writing is on the wall, the rivalry has let to an unusually high or an unwarrantably high wage rate?

Mr. W. J. Smith: I am not going to agree when you say unwarranted, although I think I understand your question about this situation where the CNTU is invading already established collective bargaining units. This is not a question of organizing unorganized workers who are suffering from low rates of pay and poor working conditions. Rather, it is an endeavour to raid already established unions which have collective agreements of a fairly high order. The suggestion is made to the workers who are covered by these agreements that because there has been a certain degree of co-operative working relationship with their employer—getting into bed with the boss. This is the insinuation that is made. In order to prove this is not so, you have to ask for very substantial improvements. The unions proceed to do this, not only in the interests of the workers but to try to prove that they are not in bed with the boss or that they are better fighters. Consequently this becomes a contest between the leadership of the various unions to prove who is the best extractor of improvements in working conditions and rates of pay from industry and business, from the economy.

• 1145

The Chairman: I am more interested in the end result. In your view is it then possible that the end result of this would be to establish benefits and wage rates which are higher than the particular industry can sustain?

I realize that is a very unfair question but what concerns me is what we have said today will contribute to the general feeling, about which I have always felt miffed, that somehow all our inflationary problems are attributable to wage rates. I have never accepted that, and I think a lot of the members of the Committee probably have not accepted it but it is certainly a bill of goods which the public have accepted. I am wondering if the testimony we have received this morning will contribute to the general impression that rivalry of this character leads to wages and benefits which are beyond the ability of the particular industry to absorb or does it just lead to a better deal for the workers.

Mr. W. J. Smith: I think by and large it leads to a better deal. Obviously when management is confronted with high costs they are compelled to put their best foot forward to improve the efficiency of their operation, thereby absorbing the increased cost. By and large this is what is accomplished by the pressures of the trade union movement on employers.

The Chairman: Thank you.

Mr. Gibbons: I would like to supplement that answer by saying that I do not think you can take this fact by itself; you have to associate it with all the factors that contribute to the appropriate time for trade unions to ask for what perhaps some people might refer to as an abnormally high wage increase. If you follow the business cycles from the 1920's in a study made by the Economic Council of Canada you will find that the relative share of the GNP between labour and the others remains just about constant on a graph; in round figures it is 75 per cent and 25 per cent. Within that there are the business cycles, and if you will follow those business cycles you will find, as we point out in a brief to the government and to the task force, that in 1966 and 1967 had we not gone for broke, so to speak, in order to obtain somewhat higher than usual wage increases at that particular time, we would have been confronted with what appeared to be and what has subse-

quently proven to be a downfall in the economy of our country. Certainly you cannot ask for wage increases at such a time. Therefore we would have been in a less favourable position with respect to the division of the GNP. I think, also on the basis of Mr. Smith's answer, we have to take into consideration the fact that Expo was a prime factor in the Montreal area—somewhat higher than usual wage increases in the construction trade were the result of Expo—Expo itself, and the tramway. I am sure Expo had an influence on that wage increase. Certainly the politicians would not want a strike during the exhibition, nor would anyone else. That also led to what has been referred to as the "Pearson formula" on the Seaway and other things. What I am saying is that you cannot take inter-union rivalry by itself, you have to examine that aspect of it in light of all the factors that contribute to what is an appropriate wage increase at any particular time. Thank you, Mr. Chairman.

• 1150

Mr. Barnett: I have a supplementary question in this area for Mr. Smith. Does not this matter of bidding or offering the most militant leadership when an election comes up, exist within the internal structure of existing unions that have collective agreements at the present time, and are you not telling the Committee, in effect, that this kind of competition becomes unduly aggravated in the situation where an entirely outside organization enters the picture.

Mr. Régimbal: I think that is a new line of questioning, Mr. Chairman.

The Chairman: It is a sort of peripheral but I think Mr. Smith could probably give a quick answer to that.

Mr. Barnett: We have been getting into the very practical area of how unions really operate when it comes to negotiating or opening up demands for new agreements, and it seems to me my question is in order.

Mr. W. J. Smith: I think you are all aware of the forces involved in electoral processes. We are elected officers of trade unions and we are subject to the electorate, you might say, of our organizations and are under the same pressures as you people are to satisfy your constituents.

The Chairman: Are your promises as suspect as ours?

Mr. Barnett: What I am getting at, Mr. Smith, is that within internal union organizations there is an effective mechanism for disposing of the people who really do get in bed with the bosses. Is that not correct?

Mr. Ormiston: Mr. Chairman, I do not want to monopolize the chair but I have waited quite some time to question my friend, Bill Smith.

The Chairman: Go ahead, Mr. Ormiston.

Mr. Ormiston: With your permission, Mr. Chairman, I would like to mention the Freedman report, very casually of course, because it was mentioned in the CBRT & GW presentation. Since the Freedman report has been tabled have many changes resulted in collective agreements, and can you see any benefits since that report was brought in?

Mr. W. J. Smith: No, not with the basic principle that was inherent in the Freedman recommendations.

Mr. Ormiston: There has not been any implementation by the railways, unilaterally or otherwise?

Mr. W. J. Smith: I think they have approached the question in respect of some of these matters more cautiously but the actual basic principle of the residual right that management insisted upon from the time of the run-through dispute right through to the Freedman Commission railway management still holds tightly to for their own self-preservation and because they think it is their prerogative.

Mr. Ormiston: On page 3 of your brief you mention that there was no need for the change in the I.R.D.I. Act and that only the CNTU was wanting a change. Were there no other labour or employer groups interested in the change?

• 1155

Mr. W. J. Smith: Not that I am aware of. I did hear of the suggestion that the Teamsters in Vancouver were desirous of it. Of course I do not know how many members of the Committee are aware of the fact that the Teamsters are outside of the Canadian Labour Congress because they endeavoured to carve out a unit from an established railway bargaining unit, the Brotherhood of Railway and Steamship Clerks at that time, headed by Mr. Frank Hall. Perhaps a short explanation would be helpful. At that time the Canadian

Pacific Railway was introducing a new type of service called "merchandise services" which was a combination of their express, their less than carload lot freight service, and also some of the truckline services like they had on Vancouver Island and up the Okanagan Valley. These services were going to be combined into a unified highway-rail type of service that would be more attractive to the shipping public. This meant combining certain collective agreements in the rail industry and highway industry into one cohesive work force. You understand that Vancouver is a substantially high wage area, and with the merging of these LCL freight pick-up and express pick-up truck drivers, as well as the delivery and highway truck drivers, into one the Teamsters moved into sort of an unsettled situation and told them that they would get them the prevailing rates on the west coast, which is higher than the railway rates of pay for truck drivers, and they endeavoured to try and raid and carve out. The Canada Labour Relations Board examining the situation said it was not in the interest of the railway workers and was not in the interest of the shipping public to carve that particular group of truck drivers out of this established bargaining unit, and declined to do so. The Teamsters proceeded to raid and they were expelled from the Canadian Labour Congress for their unconstitutional act of trying to carve out or raid an established collective bargaining unit. Now they still have the desire, if they can, to pick up those truck drivers in Vancouver as part of their organization to capitalize on the fact that truck drivers in Vancouver are paid a little higher rate than the national rate paid for truck drivers in the railway industry. Being outside of the Canadian Labour Congress, of course, they say that they would like to have this Bill because it would enable them to do precisely that. It would enable them to capitalize on a dissident group in a particular geographical area and carve them up, and that is the reason why they are out. But those in other areas represented by the Teamsters, like in the eastern conference here, whose wage rates in the railway industry compare favourably with truck drivers generally, say they do not desire that type of legislation because it is injurious and harmful. They have a contradiction within the Teamsters' representation.

Mr. Régimbal: Are you saying that the Teamsters were rejected rather than retired from your organization?

Mr. W. J. Smith: Not my organization, Frank Hall's Brotherhood of Railway and Steamship Clerks at that time.

Mr. Régimbal: Their application for certification was rejected by the Canada Labour Relations Board?

Mr. Lewis: They were expelled by the Canadian Labour Congress.

Mr. W. J. Smith: But they were expelled from the Canadian Labour Congress for having tried to carve out.

Mr. Lewis: That was in Vancouver.

Mr. Ormiston: On page 5, Bill, you say you are especially proud of the success in establishing uniform rates of pay and working conditions for all railway workers. Was this accomplished through the efforts of all these unions in joint negotiations rather than one union on its own?

Mr. W. J. Smith: I think basically it has been done by groups of unions in the railway industry working together, co-operating together, and sometimes it has been accomplished through joint negotiations. It is not correct that everybody is paid uniformly, but I think it is correct to say that a machinist is paid the same rate of pay, no matter where he may locate or work across the country. The same applies, for example, to our clerical workers or stenographers. A stenographer gets the same rate of pay whether she works in Newcastle, New Brunswick, Halifax, Nova Scotia, Vancouver, Windsor, or Sarnia, which are other higher wage areas. This is a uniform standard, what we call a class rate which has to be negotiated in some cases by the individual unions and in some cases collectively and co-operatively by groups of unions.

Mr. Ormiston: To go on to page 9, you refer to "self-contained establishment". Is this frequent in railway operations?

Mr. W. J. Smith: Well, what does constitute a self-contained establishment? Somebody is going to make an interpretation of that, and I presume it will eventually be the appeal board that would have to make a determination. I suppose a freight shed or a station in Sackville, New Brunswick, would be considered as a self-contained establishment.

• 1200

Mr. Ormiston: It is open to interpretation.

Mr. W. J. Smith: It is open to the narrowest and widest interpretation, but the fact that is important to understand is that the Board now, without any alterations to the legislation, can say what constitutes an appropriate bargaining unit, whether it be a station, an individual office, a round house, a freight shed, or othersise. They are quite authorised under the present legislation to make it as small or as large as they like. The only point is that down through the years, when they have examined all of the factors that go into this, they have said that it is better to have a national bargaining unit.

Mr. Ormiston: That is fine, thank you.

On page 13 you refer to the consolidation of seniority groups. Now is language a barrier here, especially if the groups include Quebec?

Mr. W. J. Smith: No. In some cases we have seniority groups that are involved in Ontario. For example, our railway workers here in Ottawa have perfect seniority rights to take employment in Montreal.

Mr. Ormiston: Then when you refer to regional seniority groups you do not think this is in contradiction to the national bargaining unit?

Mr. W. J. Smith: No. We have to place some limitation upon the movements rather than vacancies occurring within the railway industry and within a particular collective agreement. We give them what we term a wide, supervised geographical area, in regions and so forth.

Mr. Ormiston: When you go on to say that the St. Lawrence region spans Eastern Ontario and most of Quebec, then job performance does not require exclusive use of one language and it is not basically a factor?

Mr. W. J. Smith: No. For example, Belleville is a part of the Canadian National Railways Quebec St. Lawrence region and workers in Belleville can exercise their seniority, if the association sees fit, into the city of Montreal or into Quebec, and vice versa—and they do so. For example, as I pointed out in my submission, when the railways decided to close down the London car shops and move that operation into the Point St. Charles shops in Montreal, a large number of the workers followed that work into Montreal by exercising their seniority.

Mr. Ormiston: Then on page 16 you go on to say:

... approximately 30 per cent of these employees were able to exercise their seniority...

and their seniority was transferred. Out of curiosity, what happened to the other 60 per cent?

Mr. W. J. Smith: Well some of them went into Stratford, some of them went into Windsor, and some of them went to Toronto. A large number went into Toronto rather than go into Montreal.

Mr. Ormiston: I am referring to a statement on page 17:

A wildcat strike in any one area or community can paralyze the whole system.

Is there any agreement among a group of your unions not to strike without the support of all the others?

Mr. W. J. Smith: No, there is no agreement in that connection. The law says that we have to go through this, that there is only one time we can properly and legally strike and that is when we have been unable to resolve our demands in a collective agreement.

Mr. Ormiston: Is there not such a thing as a sympathy strike?

Mr. W. J. Smith: Well there are such things but so far as I am aware, the Railway Workers basically have not got involved in that type of activity. We have refused to cross picket lines of legitimate strikes, yes.

Mr. Régimbal: Why do you say that Bill C-186 would necessarily increase the potential of such wildcat strikes?

Mr. W. J. Smith: Because any particular dissident group for any reason, in any particular location, then can say: "Listen, we are fed up with this outfit, we are going to form one of our own, or we are going to go into some other" and apply to the board as a separate establishment and secure certification.

Mr. Régimbal: What if they are right in wanting to change? What is the alternative now?

Mr. W. J. Smith: Well the alternative now of course is that they must take the majority of what is the established appropriate collective bargaining unit.

• 1205

Mr. Régimbal: Whether they are well-served or not?

Mr. W. J. Smith: Whether they are well-served or not. It has to have a majority in the same way as members of Parliament have to be elected by a majority of those who cast ballots. Well-served or not, the people of the constituency have to accept the wish of the majority.

Mr. Régimbal: But we have an opposition.

Mr. Ormiston: I just wanted to thank Mr. Smith for his frank and courteous responses to my questions, Mr. Chairman.

Mr. Gray: Mr. Chairman, I think Mr. Reid has a question for clarification.

The Chairman: Is it for clarification?

Mr. Reid: Yes, in respect of what Mr. Smith said when speaking to Mr. Régimbal. How do you go about changing the bargaining unit if it is so widespread? Is it not correct that you would have to have a tremendous amount of money and material at your disposal if you wanted to upset the present bargaining units?

Mr. W. J. Smith: No, not necessarily so.

Mr. Reid: Well if you were operating on a nation-wide basis and there was a dissident group, say, in northwestern Ontario which felt that it was being discriminated against, in order for that group to get recognition of its demands, if it was not being fully serviced, they would have to create a nation-wide revolt to get what they consider to be justice.

Mr. W. J. Smith: No, they do not necessarily have to create a nation-wide revolt. I think in all of the established trade unions, particularly within the railway industry, all they have to make known to their superior officers is that their subordinate officers of the union are not giving the type of service that they are entitled to and they will get it corrected. There are ample procedures within the constitutions of every established railway union for ensuring that the membership's interests are properly serviced.

Mr. Reid: But that is not the point though. The point is that if you come to a decision that you want to throw the beggars out, which happens to us, there is really no way that they can change their union outside of a

kind of nation-wide revolt, which was the point that Mr. Régimbal was making.

Mr. W. J. Smith: No, this is not so. Every one of these organizations, and my own is no exception, has a nation-wide convention for representatives from every local lodge across the country. They meet, and there they elect their officers. Take myself, if I do not maintain the goodwill of the majority I will not get elected. How do I maintain the goodwill? I do it by doing a proper job on their behalf. This is where they have the opportunity to get rid of the beggars.

Mr. Reid: I understand the point that you are making but I am not sure that you understand the point that Mr. Régimbal and I are making.

[Translation]

Mr. Guay: I would like to ask a question if I may. It supplements that of Mr. Reid. Who holds the majority of votes at a convention? Which group of workers obtains a majority of votes at a convention? Is it held by the employers of Ontario and of western Quebec? Who has the majority which elects you?

[English]

Mr. Régimbal: I think that is an area of questioning which we might go into later.

Mr. W. J. Smith: Well it all depends upon the composition of the union. If the majority came from Quebec, then you would say the people from Quebec, and so on, but if it is a fairly representative union across the country and they would come primarily from those areas where the greatest number of workers in the particular industry are.

The Chairman: Mr. Guay, I do not want to interrupt you or the others, but I think there is a limit to what we can call a point of clarification. I think you are on a very legitimate subject which could involve a number of questions, and I have you on my list for questioning. But I think you have raised more than a point of clarification; it is really a line of questioning.

[Translation]

Mr. Guay: Very well, Mr. Chairman. I do not know at what time the group which is here today will leave.

[English]

The Chairman: They will be here until—

[Translation]

Mr. Guay: Please wait a minute. I would like to ask a question of privilege, Mr. Chairman. A while ago, concerning certain things which he wanted to be clarified, one member asked questions for five minutes. We do not have the right to ask a single question of one minute in order to obtain clarifications.

[English]

Mr. Régimbal: That is not true. The questioner used about 15 minutes out of the 45.

[Translation]

Mr. Clermont: On a point of order. The member for Levis maintains that the first member has asked questions for all of five minutes. He seems to have some objections, however. I am aware that this member has not had five minutes of time at his disposal, but I believe that you have allowed us to ask supplementary questions and not questions to obtain clarifications. The gentlemen did not ask the the floor, but took it themselves.

• 1210

[English]

The Chairman: Yes. The point I was making, Mr. Clermont, was that, when I interrupted Mr. Guay you will recall I said I did not want to interrupt him or the others. The observation I was making and the ruling I was going to suggest to the Committee was that we really are getting further and further afield. At some point someone has to be the victim of that decision, and Mr. Guay is the victim for no other reason than it is my opinion at this point that perhaps we are getting a little far afield. However, rather than appear discriminatory, I am prepared to allow Mr. Guay to finish.

Mr. Régimbal: Mr. Chairman, I would first like to commend Mr. Walter on the presentation of his brief, which is very, very objective and possibly in that light it is one of the better briefs presented to us. In contrast, Mr. Smith presented a free-wheeling and free-swinging brief which I would like to question him on for the purpose of clarification and possibly getting down to specifics.

On page 3, for instance, you say:

... it has been requested by only one labour organization representing less than 11 per cent of the organized workers of Canada...

You are implying that this piece of legislation is the brainchild of one particular union.

Could you give us some evidence to support that, or is it just a statement?

Mr. W. J. Smith: I think the best evidence was the headline on the front page of the CNTU paper that Mr. Macdonald of the CLC showed you. It was just the one word, "Victoire"—"Victory"—and underneath was a picture of Mr. Marchand explaining Bill C-186 to the officers of the CNTU two days after it had been introduced in the House. I think that demonstrates they were the people who considered it to be their Bill and it was a victory for them to get it introduced.

Mr. Régimbal: Will the same illustration apply where you say, "the CNTU and its supporters in the government"? Later on you use the words "Quebec-based", and then in your remarks this morning you used the words "Quebec-biased union", because it thinks only in terms of Quebec. Is that again a free statement? I would like you to elaborate in this direction and tell us what there is about the CNTU's attitude that permits you to state they are only interested in Quebec and have no ambitions outside of Quebec.

Mr. W. J. Smith: I do not know what ambitions they may have outside of Quebec. I am not aware of their having demonstrated such ambitions to any substantial degree. I do know when Mr. Marchand was President of the CNTU, and his organization was endeavouring to secure the allegiance of a majority of the Montreal tramway employees whom my organization represented, he appeared before a meeting of the Montreal tramway employees and quite properly said to them that as far as he was concerned he had to admit the Canadian Brotherhood of Railway, Transport and General Workers was a good union. He said nothing derogatory about it, but despite that fact he said Quebec workers should have their own union and they should establish their own institutions in the Province of Quebec. He was speaking as the President of the CNTU at that time. This is the only evidence I have which indicates to me that they were only concerned with establishing institutions in the Province of Quebec and not elsewhere.

Mr. Régimbal: I might come back to that in a moment. Following the order of your brief, you say in the last paragraph on page 3:

...combining their collective strength to win better wages and working conditions.

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You have already said a few words about the advisability of or the opportunity for joint negotiations, but do you have any specific example you can give us where joint negotiations might have been carried on with two rival unions that participate in the same negotiation committee?

Mr. W. J. Smith: No, I have not.

Mr. Régimbal: In other words, is it inconceivable if Bill C-186 were to be passed that the CNTU and the CBRT, for instance, could sit down and negotiate jointly?

Mr. W. J. Smith: Yes, it is absolutely inconceivable to me. I just could not possibly see that taking place.

Mr. Régimbal: This ties in with what you were saying about objectives. I would like to hear more about what you feel your objectives are and how they are different from the objectives of the CNTU.

Mr. W. J. Smith: As a national organization we have to try to bring to the membership the greatest good for the greatest number and not just satisfy the interest of some particular little group. May I go on to explain what I mean by that.

We have members who are railway workers in places like Sarnia, Ontario. Sarnia is an industrial town on the border of the United States. It also has some industries, such as oil and chemicals, which can be highly automated and there is very little labour content in the units of its production of the industry. Consequently, because of these factors, the chemical and the oil industry can pay high wages—and do pay high wages—in comparison to our railway workers in Sarnia. I think it is correct to say that our people in Sarnia are never happy with our accomplishments there because we have not matched what prevails there.

In Windsor, which is primarily based on the large automobile industry and which is another border city, our railway workers are not happy with their unions' accomplishments because the unions have had to make agreements based upon the national interest of the greatest good for the greatest number of its membership. As I say, this cuts through all the peaks and valleys of the many variations in wage rates and working conditions prevailing across the country.

If we had to get down to negotiations based on the particular environment of each loca-

tion we would not have national wage rates—and I submit we would bring much less good to a much larger number than we do now. In other words, we would be satisfying the very few at the expense of the great majority of the Canadian people.

Mr. Régimbal: Are you not being a little severe and perhaps a little unfair when you equate this excessive regional concern with the "narrow ambition and blind nationalism", you mentioned on page 4.

Mr. W. J. Smith: If you consider that the people in Chicoutimi and Jonquière which are railway points—particularly Jonquière—should now have the rates of pay that prevail just around Jonquière and not those that railway workers have in Montreal and Toronto, but that those in Windsor and Sarnia should have the rates that prevail in Sarnia and Windsor, then, yes, you would...

Mr. Régimbal: But you are severe?

Mr. W. J. Smith: No, I do not think so. We may be severe in saying to Sarnia and to Windsor that there are many more places in this country like Jonquière and Chicoutimi than there are like them, with a great many more workers employed, and that it is because we are following our principle of the greatest good for the greatest number that we are making a settlement on this basis. It does not reach the full peak of Sarnia's prevailing rates, or those of Windsor either. We may be being severe on them on that point.

Mr. Régimbal: This is all true about economic disparities, but what is rather unfair is to attribute it to blind nationalism rather than perhaps to over-eager regionalism. As soon as you talk of nationalism you will realize that you are talking in the French-English context. I doubt that this is the best approach.

You say that the CLC has 350,000 members in Quebec.

Mr. W. J. Smith: Yes.

Mr. Régimbal: What proportion of those are in the CBRT?

Mr. W. J. Smith: In the CBRT in Quebec our membership will be in the neighbourhood of 10,000.

Mr. Régimbal: About 10,000 in Quebec?

Mr. W. J. Smith: Out of our 35,000.

Mr. Régimbal: It is roughly one third. What proportion of that Quebec content is French-speaking?

Mr. W. J. Smith: I would say somewhere in the neighbourhood of 95 per cent.

Mr. Régimbal: To pursue this line for a moment what percentage of your board of directors or officers are French-speaking?

Mr. W. J. Smith: All officers, staffmen and employees in the service of our Quebec membership are native, French-speaking members.

Mr. Régimbal: Are your meetings conducted in French?

Mr. W. J. Smith: Yes; and I may add that is something I am very proud of. Ours was the first organization in Canada to have simultaneous translation. We did it at a time when you could not procure the equipment in Canada. To enable us to introduce it at our national convention we had to ask the government to issue an import licence and an export licence so that we could go to New York and obtain simultaneous translation equipment from IBM. We had to return the export licence to the United States immediately.

Historically that is how far we have gone to try to meet the legitimate requirements of our members.

Mr. Régimbal: In what year was that?

Mr. W. J. Smith: I think it was back in 1955.

Mr. Régimbal: Could you give me the proportion of your board of directors are French-speaking?

Mr. W. J. Smith: There are the regional vice-président for Québec, Mr. P. E. Jutras; the national executive vice-president, Mr. J. A. Pelletier; and Mr. Laurent St-Pierre. These are all elected officers. And from Montreal, there is Mr. J. Enright, who has an English name but is French-speaking.

Mr. Régimbal: We are getting used to that.

Mr. W. J. Smith: Yes. These are all members of the national executive board, who come from the Province of Quebec and are native French-speaking people. In addition, all of our employees including stenographic as well as organizers and servicemen, are French-speaking.

Mr. Régimbal: You say you have simultaneous translation at your national meetings?

Mr. W. J. Smith: Yes, sir.

Mr. Régimbal: On page 7 you say:

—the board has rejected its application—not because it was bound by law to do so, but because of its conviction that to grant such certification would be detrimental to the workers and the industry concerned. This was, and still is, the belief of the great majority of board members, all of whom—apart from the chairman—have broad experience...

They have come to the conclusion that national bargaining is a vital stabilizing force in the economy,...

Are you not speaking for the Board there? You are quite categorical about it. Are you not substituting yours for the Board's judgment there? In other words, have you any evidence? Has the Board made any such statement?

Mr. W. J. Smith: I cannot quote you anything, Mr. Régimbal. I can only speak from my experience, going back and forth. In wartime we had, I think, P.C. 1003, which was the first Order in Council establishing procedures for the recognition of unions and for collective bargaining. At that time there were organized groups within the railway industry. I can give you a couple of examples under the legislation back in the '40s, when the board was known as the National War Labour Board.

Mr. Régimbal: But you specifically mention "the great majority of board members." That is...

The Chairman: Mr. Gibbons wishes to say something.

Mr. Gibbons: I think this has been taken from a fair number of Board decisions. If I may, I will quote you one:

The Board is of opinion that ordinarily it is not conducive to stable labour relations or orderly collective bargaining negotiations to subdivide a well-established craft unit of employees of an employer found to be an appropriate unit by the Board into several units consisting of segments of the same craft group of employees. Consequently, in any particular case where it has sought to do this, convincing grounds for so doing should be established.

If you follow the Board's decisions this is usually their reasoning in arriving at a decision.

Mr. Régimbal: But the attitudes of the Board members are not registered unless there is dissent.

Mr. Gibbons: No; but it is inherent in the decisions. I think this is what is implied here.

Mr. W. J. Smith: Basically this is what we are saying. In cases where rival unions have sought to obtain certification for a minority of members in such a unit the Board has rejected their applications. They have done this in the case of organization on several occasions. They have done that, and as I say it appears to me, and still apparently to a great majority of the members of the Board, that it is in the best interest.

Mr. Régimbal: On page 8, dealing with the taking of a special attitude in the case of union contracts, you say this:

...we are not opposed to this principle, but we question whether it can be implemented...all that would happen under this procedure, in our view, is that the CLC and CNTU representatives would cancel each other out, leaving the decision to the chairman.

This point has been raised previously. How do you, as an organization, feel about the over-riding, or single, decision by the chairman in cases of conflict?

Mr. W. J. Smith: We have never liked it, in the sense that it reduces it to one man's decision.

Mr. Régimbal: A competent, representative and experienced man.

Mr. W. J. Smith: Yes; but this panel proposal completely violates all concepts of...

Mr. Régimbal: I have a tendency to agree there; but the Quebec Labour Relations Board, for instance, has got around this problem by leaving the decision with the chairman. How do you think it would apply in the case of the Canada Labour Relations Board?

Mr. Gray: Mr. Régimbal, you also ought to add that, as assessors, the representative members of the Board hear the evidence and take part in the discussions leading to the decision.

Mr. Régimbal: Yes, they do; representative members are there to counsel the chair, if you will. But the chairman's decision...

Mr. W. J. Smith: But if the chairman is going to make the decision what role do the members of the Board play?

Mr. Régimbal: This would arise only in a case where there is conflict. This is mostly what Bill C-186 is all about. You do not adopt any particular position for or against?

Mr. Gibbons: In every case before the Board there is conflict...

Mr. W. J. Smith: When we appear before a conciliation board we are confronted with exactly the same situation. There is a representative named by the unions, another one named by the employers, and you have the chairman.

Mr. Régimbal: It is not true to say that every case that comes before the Board involves conflict. It is a matter of recognition, of certifying, and I think the majority of similar cases that come before the Board are to determine whether or not such and such a union is represented and has a majority. But when you have two unions claiming the same majority, then you are in a position of conflict.

Mr. Gibbons: Almost every case that goes before the Board is the result of an application by one union to take over the jurisdiction of another union. You cannot help but have an area of conflict; in conflict there is always one dissatisfied customer. In all due respect, I have been before the Board on a number of occasions; sometimes I was happy, sometimes I was completely disappointed; but there was always a conflict between another union and the one that I formally represent.

Mr. Régimbal: This could be the reason why you have certain fears about the Appeal Board, actually.

Mr. Lewis: You were with the firemen before, were you not?

Mr. Gibbons: Yes.

• 1230

Mr. Lewis: In the case that Mr. Walter mentioned in his brief, where in 1958 the firemen tried to get certification for the Quebec region, were you before the Board on that?

Mr. Gibbons: No, I was not before the Board, but the same area of conflict prevailed in the organization of which I was a member at that time, although not an officer. There are other cases where our two organizations have been before the Board. Certainly it was an area of conflict; there is no mistake about that.

Mr. Régimbal: From the second paragraph on page 9 again I quote:

Undoubtedly it was designed and tailor-made to fulfil the desires of the CNTU,...

When? Any evidence?

Mr. W. J. Smith: You need any evidence to support that?

Mr. Régimbal: Well, it is an impression.

An hon. Member: Very definitely it is an impression. Who has not got that impression?

The Chairman: Have you finished, Mr. Régimbal?

Mr. Régimbal: No, I have a couple more. I will try to speed them up.

On page 16, the last line:

The result inevitably would be widely disparate wage rates and a severe blow to national unity.

I cannot see where dollars and cents can have a direct relationship on national unity. I would like to hear more.

Mr. W. J. Smith: I think one thing that is a strain on national unity at the present time is the ever-increasing inequity in economic and social conditions that prevail in this country. I do not think it is just a question of language. When I go down to the Maritimes amongst our people, invariably I run into the problem where they say: "We made a great mistake when we went into Confederation; we should be apart and our trade should be running north and south and not east and west. Why have we a lower standard of living than that enjoyed in Upper Canada?" This is the strain that is on national unity, and our organizations in the railway industry are bringing to these people rates of pay and working conditions that are equal with those in the rest of Canada.

Mr. Régimbal: You are talking more of regional disparity than of national unity.

Mr. W. J. Smith: The inequities in economic and social conditions that prevail in this country are a big strain on national unity. I think everything must be directed towards trying to bring a levelling so that all Canadians enjoy a much more equitable standard of living than what they enjoy at the present time. That will weld and bind, and develop the bonds of unity much more than if each little group can go after its own particular localized interest trying to extract the best it can on its own behalf without regard to anything else.

The Chairman: May I interrupt you for a second. I have just been informed that Mr. Walter has a flight to Winnipeg at 3.30 this afternoon. Are there to be questions to Mr. Walter? If so, he would like to know it so that he can postpone his flight back. Can you set this flight back? There are questions for Mr. Walter.

Mr. Régimbal: If it suits the witness, I do not mind resuming later. I have perhaps 10 more minutes to go, but in case it should prolong, I have no objection to passing for somebody else to question Mr. Walter.

The Chairman: Are there other people with questions to Mr. Walter? Just Mr. Gray and Mr. Clermont. With Mr. Régimbal's agreement perhaps we could deal with those two now. I will start with Mr. Clermont because he is first on my list.

Mr. Gray: That is fine.

Mr. Régimbal: Mr. Chairman, could I ask, then, to be put on top of the list after lunch?

The Chairman: Yes.

Mr. Gray: There is only one thing, Mr. Chairman. Some of the questions I want to ask primarily of Mr. Walter might also be answered or elaborated upon by the other witnesses. I hope I will not be unduly limited.

The Chairman: No, but you are on the list after Mr. Clermont this afternoon. We will get Mr. Walter's views so that he will not have to defer his flight. We have half an hour.

Mr. Gray: Oh yes, I am very happy to try to accommodate him.

[Translation]

Mr. Clermont: Mr. Chairman, how much time do you allow for the questions of each member?

[English]

The Chairman: That is a very good question. I am not sure I can clarify it. I started off with a 10 or 15 minute time limit, but it only meant that people went on again later on. So I felt it better to let them exhaust their questions. Go ahead.

• 1235

[Translation]

Mr. Clermont: Here is my first question to Mr. Walter and it concerns the formation, the structure of the appeal division. In your preliminary comments concerning the structure of the appeal division, you implied that the bill does not specify whether the two members representing the public at large would be permanent members or *ad hoc* members. I believe that when Mr. Nicholson, the minister of Labour, came here, he stated that the members would be permanent.

[English]

Mr. Walter: The point that I make in my brief, Mr. Clermont, is that the Bill does not specify that. We have had other pieces of legislation where the Minister or the Deputy Minister has given us to understand that one thing will take place in the legislation and it has developed that this was not so. So I cannot take it that what the Minister says in his introductory remarks...

[Translation]

Mr. Clermont: No, I am speaking of the structure of the Board, Mr. Chairman. It seems to me that Mr. Walter has brought forward a hypothesis. He maintains that the Governor in Council would be obliged to find, from the public at large, people who are prejudiced concerning the fragmentation of national into regional bargaining units. To substantiate my remarks, I could ask for the testimony of Mr. Donald MacDonald, the acting President of the CLC, and member of the CLRB, who told us, when he testified before this committee, that he believed that all the members of the CLRB, that is, the four representatives of the employers as well as the four members representing the employees, when they were appointed and once they were sworn in, would be guided by their conscience. And you, Mr. Walter, seem to believe that the government should make use of a lamp, or what, to those people who would favour the fragmentation of bargaining units into regional units. Is this your opinion? Do you not believe that two persons chosen from the public could just as well

respect the oath which they would take on being appointed members of the appeal division of the board if Parliament should decide to adopt section 5 of bill C-186?

[English]

Mr. Walter: First of all, in reply to that I would say that I am not aware that they have to take an oath, as do the members of the Canada Labour Relations Board. I do not know what the background of these people will be.

Mr. Lewis: Mr. Walter, the Bill provides that they would be members of the Board.

Mr. Walter: No, we are speaking, Mr. Lewis, of the appeals...

• 1240

Mr. Lewis: Yes, but they would be members of the Board. They would have to take the same oath of office.

Mr. Walter: Oh, I see. On appointment they become members of the Board.

Mr. Lewis: They are appointed as members of the Board but sit as an appeal division. They are not a separate court.

[Translation]

Mr. Clermont: Mr. Walter, if I refer to section 1A of clause 5, I read:

In addition to the Chairman and members of the Board and the persons appointed under subsection (3) of section 58, the Governor in Council may appoint two other persons representative of the general public who shall be member of the Board for the hearing and determination...

As Mr. Lewis has said, these two persons would then become members of the CLRB and would have to take the oath.

These persons would then be obliged to take the oath, regardless of whom they were, should Parliament pass the bill as it is presented here.

Because they have taken this oath, and if I may rely on what Mr. MacDonald told us, they would have to judge in conformity with the interests of the public and not according to their own prejudices.

Mr. Walter, you tell us that these persons would be chosen by the Government to frag-

ment the bargaining units. Personally, I am opposed to such statements.

[English]

Mr. Walter: Well I agree that they would have to take an oath, but I think that in order to uphold this proposition which will be outlined in the legislation, and which will be a direction to fractionalize a bargaining unit, they could not rule in any other way.

[Translation]

Mr. Clermont: Sir, if I am to accept your answer, I must equally accept the arguments given by the CNTU to the effect that the four representatives are hostile towards it whenever there is a demand for the fragmentation of national bargaining units because of the fact that the Board has three representatives from the CLC and one representative from the railway industry. The CNTU, according to your statement, maintains that the four representatives are against it and that it has no chance of obtaining the fragmentation of national bargaining units. I am not saying this myself, but I am interpreting your statement.

[English]

Mr. Walter: At least when you are speaking to the members of the Board they have the benefit of some past experience. These two people will be members at large from the public sector, they may or may not have experience in labour relations, they may or may not have knowledge of the railway situation, or the industry that they are dealing with.

[Translation]

Mr. Clermont: Mr. Walter, I do not believe that the Governor in Council would appoint two persons who have no knowledge of labour relations. Regardless of the Government, we would choose such persons that are sufficiently competent to judge the appeals.

[English]

Mr. Walter: Well I cannot agree with that, because we have known...

[Translation]

Mr. Clermont: You do not accept my argument but you are ready to admit that the actual members of the CLRB respect or will respect their oath and that the two persons chosen by the Government to represent the public at large would be prejudiced. This is quite strong, Mr. Chairman. Once again I am

opposed to such statement because whoever swears an oath must respect it.

Here is my second question Mr. Chairman. According to the information that you gave to this Committee in your preliminary remarks, it would be in the higher interest of the workers, regardless of their natural or linguistic inclination... You said that you represent the workers of four regions: Smith Falls, Montréal, Québec and Belleville. If among these workers, those of Montréal and Québec in majority wanted to choose a particular union, as you and other witnesses who share your views concerning Bill C-186 have stated, in the higher interest of the workers concerning their working conditions, their salaries and seniority, would it not be preferable to abstain from fragmenting the national units?

[English]

Mr. Walter: I think other witnesses have put forth that proposition. My main concern is the fact that people other than those stationed in the Province of Quebec have rights to runs and territories, they have rights to work in the Province of Quebec. And if this bill allows a group in the Province of Quebec to apply for and gain certification, and thereby carve a section out of a national bargaining unit, then you are faced with the jurisdiction of territory between the employees in the Province of Quebec and those in the Province of Ontario or possibly in New Brunswick. This is my main concern.

• 1245

Mr. Smith has described to you how it can affect the over-all position in so far as wage rates are concerned. I am not dealing with that part. I am simply dealing with the exercise of seniority and the maintenance of seniority districts that were established before the Province of Quebec came into existence when we had Upper and Lower Canada. These seniority districts were set out at that time, and people who now reside in Smiths Falls—they may not be French-speaking or they may not be English-speaking—have rights to run into the Province of Quebec. Now I am suggesting to you that in the event that a unit were carved out of the national unit, representing all the employees in the Province of Quebec, then this would be a bar to people living in Smiths Falls taking jobs in the terminal of Montreal or running into Montreal, or running into the Province of Quebec or vice versa.

[Translation]

Mr. Clermont: As Mr. Lewis has just mentioned, seeing as the workers which you represent have the same privileges as those of Smiths Falls, could they find employment in Smiths Falls as well?

[English]

Mr. Walter: That is correct.

[Translation]

Mr. Clermont: Very well, Mr. Chairman. I reserve...

Thank you.

[English]

The Chairman: Mr. Gray, will you proceed.

Mr. Gray: Mr. Walter, on page 3 of your brief, you make a most interesting point with respect to the use of the word "distinct" in proposed clause (4a). I think there is something in what you say about the word "distinct" being superfluous if attached to the word "geographical". Would you say then that if the word "distinct" were to be removed from the proposed clause (4a) it would be less objectionable to your group?

Mr. Walter: No, I would not say that, but I would say that at least it would put the proposed legislation on a par with the powers of the Board as they exist right at present. The Board has the power to use any criteria that they see fit in determining a bargaining unit. They have this power now.

Mr. Gray: I agree with you completely on that. So what you are saying in effect is you do not object to the Board looking at or taking into consideration a regional or local factor so long as they are not singled out above the other factors or criteria which have been put in evidence before this Committee in previous hearings and with which I think you are familiar.

Mr. Walter: I would suggest that they have already done this. I could give you a case in point where we applied, again against my friend here, Mr. Gibbons, and his organization, for representation rights in the Province of Newfoundland when they came into Confederation. At the time that the Canadian National Railways took over the Newfoundland railway and made it part of the system we claimed that because we held bargaining rights for engineers on Canadian National that we should automatically assume the bargaining rights for engineers in Newfoundland. The Board in their judgment found that this

is not the case, that there is a geographical area there where these people work, that it constitutes a separate bargaining unit, and for that reason they rejected our application. So you see, the Board has already exercised this type of judgment.

Mr. Gray: So there is nothing in the present Act banning what you say the proposed act would allow?

Mr. Walter: With the exception of the description—the added direction to the Canada Labour Relations Board, as I see it, of a description of a bargaining unit and, of course, with the exception of this so-called appeals procedure.

Mr. Gray: I can see the fears that the proposed amendments could create for people like you, but I put it to you, Mr. Walter, that there is nothing in the proposed amendments that makes it obligatory for the Board to grant a certificate to every regional or local union for which an application is made.

Mr. Walter: No; I agree with that position and we would not be concerned about going before the Board and making our case. We never have been, even as an independent union. We have never hesitated to go to the Board and make our case if we thought we had a case. We were somewhat the same as the CNTU; we did not have representation on the Board but the change that is suggested in this Bill does not require the Board to recognize every regional bargaining unit, but in the event that the Board in its judgment does not recognize it, then the union that is applying gets a second chance through this appeals procedure.

Mr. Gray: There is nothing in the proposed amendment that makes it obligatory for the appeal division to grant every appeal by a group wanting to have a local or regional unit that was not successful in the first instance before the representative Board.

Mr. Walter: There is nothing that makes it obligatory, but certainly there is the suggestion that they would go along with what is implied in the legislation; otherwise they would not need this type of appeals procedure. If they want an appeals procedure there are other methods and structures that can be used for providing a proper appeals procedure.

Mr. Gray: Perhaps you could assist the Committee in trying to deal with this very

complex and difficult problem, especially people like me who are very aware of and very interested in seeing the benefits that come from system-wide bargaining preserved but who, at the same time, are concerned about allegations of at least the appearance—I stress “appearance”—of lack of fairness in the way the present Board operates. What are some of the other structures or methods that you might want to bring to our attention?

Mr. Walter: I have not given that any thought and I am not prepared at this time...

Mr. Gray: I do not want to put you on the spot, but I felt if you have some ideas it would be very helpful to the Committee to have the advantage of your experience. If you can think them out in the next day or two, perhaps you can give them to the Chairman and we can have them on the record.

Mr. Walter: I might say that my organization has lost...

Mr. Lewis: Stay at home, Jack. Do not...

Mr. Gray: I want to interject here. I thought we are working together as a Parliament to do the right thing for the country at large...

Mr. Lewis: Come now, confrere, have your sense of humour at work.

Mr. Gray: ...not just to seek political advantage.

Mr. Walter: I only want to say that we have had the same experience before the Board as everyone else. We have won cases and we have lost cases and, as I said in my brief—I believe I made the point in my brief—I cannot see any method that would be an improvement over what we have here.

Mr. Gray: Mr. Régimbal asked Mr. Smith about the system written into the Quebec Labour Code. I raised it on other occasions, Mr. McCleave has raised it and it is my understanding that in the Province of Quebec—a large province with many regions and many different unions operating under provincial jurisdiction—the relatively new system written into the Quebec Labour Code which provides in cases of inter-union conflict that representative members hear the evidence and take part in discussion leading to the decision and advise the Chairman, seems to be working fairly well.

I am not aware of Mr. Smith's union which operates in the provincial as well as the federal domain but when any major union group carries out a campaign such as the one we see against the proposed Bill C-186, against these provisions of the Quebec Labour Code, while you may not be prepared to give a final answer at this time, I suggest this might be something we could take a good look at.

I might also add that I doubt whether it would be useful, if we have such a provision, to have it extend as widely as in the Labour Code, but it might be limited to conflict over the question of an appropriate bargaining unit. I want also to add that my personal view is that if we look at this more seriously I do not think I would be sympathetic to the idea of having it as wide as it is under the present Labour Code.

Mr. Walter: I will certainly have a look at it, but since our union does not operate under provincial jurisdiction in the Province of Quebec I am not aware of...

Mr. Gray: I am not insisting on your stating an authoritative opinion. I just mention I know that Mr. Smith's union—perhaps I will ask him more about it this afternoon—operates in the provincial domain and I am not aware of their carrying out any major campaign at present to remove this procedure.

• 1255

I shall take just another few minutes if I may, Mr. Chairman, on matters more specifically related to Mr. Walter's submission. What I am going to discuss with Mr. Walter now has been brought out quite well, I believe, and to a great extent by Mr. Clermont. I wonder, Mr. Walter, whether in your remarks on the appeal board and the list of appointments and so on, there has not been some misconception of how the present members of the Board, including the chairman, are appointed? If you look at section 58 of the present Industrial Relations and Disputes Investigation Act it appears that the method of appointment, not only of the Chairman and Vice-Chairman but also of the representative members, is exactly that which you appear to criticize in your brief, that is to say, through appointment by Governor in Council. Therefore, the risks you foresee in the appointment of the appeal board actually can exist at the present time with respect to appointments of people to the Board as it is presently constituted.

Mr. Walter: Well, it is the method of appointment that I am critical of here. On the present Canada Labour Relations Board there are four members from the management side and four members from the trade union side and then the Chairman, appointed by the government.

Mr. Gray: Just a minute, Mr. Walter. I think the way you have expressed this represents, at least in part, the misconception that I am referring to. If you look at the section you will find that while eight members of the Board have to be representative of employees and employers, all of them are appointed by the government and there is no obligation on the government to consult with any labour groups or to accept any nominations from any labour or management groups.

Mr. Walter: I realize that, but I am speaking about practice; practice that has been in existence since 1947 and this is what has been done.

Mr. Gray: But it is not written into the law and certainly, if you are looking at the text of the proposed amendments and the existing law, you can always argue that under the existing Act some future government may not carry out this practice which, as you say, has worked reasonably well.

I also point out that the Chairman of the present Board does not have to be representative of anybody and as you point out in your brief, the Chairman represents the public interest. I think you used those words yourself.

Mr. Walter: We consider that he does represent the public interest. Can you define whom he represents any better than that? I would suggest that he does.

Mr. Gray: No; I wanted to commend you for using those words and therefore I found it difficult to see why you complained about the proposed amendments by saying that the members of the appeal board should be appointed to represent the public interest.

Mr. Walter: Because in the case of the Canada Labour Relations Board, the members of the Board participate with the Chairman in reaching the decisions, but in the case of this appeals board, as I understand it, two members would be appointed from the public sector who join with the chairman, but they would be outnumbered automatically.

Mr. Gray: By whom?

Mr. Walter: I should have said, the chairman would be outnumbered.

Mr. Gray: But as Mr. Clermont put it to you, I think in fairness you have to concede that it is just as likely these people will be people of integrity with some background in labour relations as the reverse.

Mr. Walter: I think if I conceded that I should be somewhat naive.

Mr. Gray: Not at all. I think you would be the fair-minded person I think you are.

Mr. Walter: I hope I am, but I cannot see that that is the way it would work. I have had some experience with appointments to conciliation boards and that is why I say this.

Mr. Gray: Yes. Well, I think if this were just a conciliation board your point would be well taken, but it is our understanding, and I think even Mr. Lewis will agree, that these people are not going to be *ad hoc* nominees but permanent members of the Board for the purpose of...

Mr. Lewis: What I agree with is that the Minister has said they would be.

Mr. Gray: I would go on to say that...

The Chairman: You are not disputing the Minister's word, are you?

Mr. Lewis: I have heard rumours that the Minister may not be there for very long. He may be on the West Coast and a new Pharaoh may come who knew not Joseph. I do not know what will happen.

The Chairman: You know he is not the first minister about whom you have heard rumours.

Mr. Gray: Mr. Lewis is well aware that the descendants of Joseph ultimately prevailed.

Mr. Lewis: Let me remind my learned friend that history does not necessarily repeat itself...

Mr. Gray: Well, let us hope that it...

Mr. Lewis: ...and I would just as soon be without a Pharaoh, if you do not mind.

Mr. Gray: Anyway, I think you are being unfair to any minister by talking about Pharaohs, but I wanted to fix this...

The Chairman: Bill C-186 is before the Committee, not the Old Testament.

Mr. Gray: That is right. Perhaps we can apply some of the principles; they might help us to resolve our difficulties.

• 1300

Mr. Lewis: I am not going to be here this afternoon, Mr. Gray, because I want to sit and listen to the Prime Minister and others on the tax bill. Will you permit me to suggest that as I read Mr. Walter's brief—and I have not talked to Mr. Walter—these technical details are not what worry him. It seems to me that what he is saying is that the appeal board is put there in order to make sure that section 4(a) is applied. That is what worries him and I think that is what we ought to direct ourselves to. Am I not right about that?

Mr. Walter: It seems to be that way.

Mr. Lewis: You see no reason for the appeal board other than to make sure the new criteria are implemented.

Mr. Walter: That is right.

Mr. Gray: My questions are directed to examining this argument which is, I think, implicit in Mr. Walter's brief and to attempt to point out...

Mr. Barnett: Mr. Chairman, should Mr. Gray not give recognition to the basic fact expressed in the brief that the appeal members appointed will be bound by the terms of reference to that proposed amendment to the Bill, and to fulfil their oath of office they will have to regard it as the will of Parliament? This is what I mean.

Mr. Gray: If I may just take a minute I think we get to another basic question which is what obligation is created on them by the proposed amendments? Now, others may disagree with me but I say that mostly it is an obligation to take this factor into consideration along with other factors and that they do not automatically have to grant every such application.

If they did, since section 4(a) applies also to the deliberations of the existing representative Board, there would be no need for an appeal board. If the case is that if there is a direction and it is implicit in section 4(a), then the direction would apply with equal force to the existing Board and the appeal board.

Mr. Walter: Since the Minister has been quoted, I recal hearing him say that this Bill would not change the structure of or the individuals on the present Canada Labour Relations Board.

Mr. Gray: I think, Mr. Walter, you have given in part the answer to why an appeal board is proposed here rather than some other approach such as the one I mentioned to you. It is an attempt—perhaps and perhaps not the best method but now is the time to go into it—to maintain the representative character of the Board itself while providing a method of ensuring there can be no argument that there is not fair treatment.

It could be argued pro and con, but I think one could see that the suggestion of the appeal board can be explained on grounds other than those put forward by Mr. Mather and Mr. Lewis. Rather than ensuring the granting of all regional applications, which you very fairly have already said would not be happening in every case, it would be for the purpose of ensuring at least the appearance of fair treatment in all cases of this type of conflict.

Mr. Walter: If the idea is to maintain an appearance of fair treatment, then I suggest there should be some appeal structure other than the type proposed in this Bill.

Mr. Lewis: There has been no evidence of unfair treatment, Mr. Gray...

Mr. Gray: I am not suggesting there is. I think...

Mr. Lewis: ...or an appearance of unfairness, either. There have been assertions but there has been absolutely no evidence of it.

Mr. Gray: But I think when we look at tribunals of this type, at the risk of repeating something that has been said in other words on a lot of other occasions, it is not only what happens but what appears to happen and if a substantial group that has to deal with this tribunal feels, perhaps quite wrongly on an objective investigation of the facts, that they are not being dealt with fairly, then I find it difficult to see how the system can work properly unless, through these means or perhaps other means you may have in mind that have not worked out, this appearance of fairness is provided on all occasions.

If this is done and if one group continues to object, then it would seem to me that it

would be open to you and me and others to say: I am sorry, gentlemen; we have gone as far as we can to make sure that matters are operating fairly and if, on objective consideration of the merits of the issues, you are still not getting decisions you like then nothing further can be done.

I will stop there. I want to thank you, Mr. Walter, for making yourself available today.

[Translation]

Mr. Clermont: Mr. Chairman, my question is to Mr. Walter.

To a question asked by my colleague Mr. Gray, I am wondering if I understood correctly when he answered that he can see nothing which would presently improve the actual law passed in 1948?

[English]

Mr. Walter: If your question is whether I see any reason for changing...

Mr. Clermont: No, no. My question is this: Did I understand your answer to a question by my colleague, Mr. Gray, to indicate that you do not see anything at this time that will improve the present law we are discussing today?

Mr. Walter: That is correct. I do not see any need for improving the present law.

Mr. Clermont: Even though that law was passed in 1948 and considering all the changes that have taken place between 1948 and 1968, which is 20 years, you do not see any need to change that law?

Mr. Walter: Not in the context we are discussing this. There has been all kinds of evidence before this Committee to indicate that the present Canada Labour Relations Board has given fair decisions. Now, if you are talking about the Industrial Relations and Disputes Investigation as a whole, then I would say...

Mr. Clermont: That is all right. There is no need to go further. It is only what we are discussing today. Thank you.

Mr. MacEwan: Mr. Walter, how many members are there in your union?

Mr. Walter: There are approximately 5,000.

Mr. MacEwan: Do you represent the locomotive engineers in all the provinces of Canada except Newfoundland?

Mr. Walter: That is correct.

Mr. MacEwan: I see. Following what Mr. Clermont said, have you prepared or do you intend to prepare a brief to the Woods Task Force on labour which is now sitting concerning matters other than this in the Industrial Relations and Disputes Investigation Act?

Mr. Walter: For that purpose I have joined with the Canadian Railway Labour Executives' Association and we have presented a brief on behalf of the unions represented in this Association.

Mr. MacEwan: Thank you, Mr. Chairman.

The Chairman: Are there any further questions? Thank you, Mr. Walter. For the rest of the gentlemen we will resume after Orders of the Day or at 3.30 p.m., whichever is first.

Mr. Walter: Thank you, Mr. Chairman.

AFTERNOON SITTING

The Vice-Chairman: Gentlemen, will you please come to order. I think Mr. Régimbal yielded this morning to give Mr. Gray an opportunity to question Mr. Walter. Would you start, Mr. Régimbal.

Mr. Régimbal: Thank you, Mr. Chairman. If you want to bear with me for about five minutes I will be able to complete my series of questions.

We touched on this matter of wildcat strikes this morning, Mr. Smith, in reference to your brief at pages 17 and 18, which states in part:

A wildcat strike in any one area or community can paralyze the whole system.

It also states:

Cut loose from this discipline, local and regional groups of workers would be free to indulge in all kinds of unpredictable and irresponsible actions.

I wish you would illustrate to me how in principle fragmentation would necessarily cause more wildcat strikes.

Mr. W. J. Smith: If I may, I will take the time to explain the point in the brief. With the large units that we now have, we have had wildcat strikes in the railway industry, but the reason we do have a fairly high degree of observance of collective agreements

and the constitution is because of the fact that they recognize they are a part of a total army. However, with fragmentation, every little station, hamlet and so forth across the country is going to become an independent union unto itself and not subject to the considerations of other stations, other towns, other cities or even other groups within the city or town, and then they will be quite free to take any course of action that they wish. They will not be inhibited or subjected to any constitutional provisions or authorities, they will be subject only to their own little certified bargaining unit that has been determined, and I think this will be multiplied all across the country. What I am trying to say is that at the present time we do have at least some respect for the constitutional provisions of our organizations which have been made collectively by large numbers of people spread right across the country, and consequently these provisions are observed.

Mr. Régimbal: I am sure that you did not want us to come to the conclusion that if more unions mean more wildcat strikes, no unions would mean no strikes.

Mr. W. J. Smith: I am not suggesting this for a moment. I am just suggesting that the incidence of it would be reduced.

Mr. Régimbal: Of course we really have no proof of that. There is that possibility, but it remains that. There is nothing in the written or unwritten rule that says that if you have more than one union you will have more strikes.

Mr. W. J. Smith: No, I suppose there are no written rules that say that is so, but I think it is a reasonable assumption that it increases the risks many times over.

Mr. Ormiston: Bill, you used the word "respect", is it not discipline?

• 1555

Mr. W. J. Smith: It is not so much discipline. It certainly does give central officers certain authorities over locals and groups to comply with the constitution, but I think it is the fact that they are not, in total, making their own little constitution and drawing it up as they see fit. You see in our organization, and most of the railway organizations I think are the same, no one can call a strike unless there has been a referendum ballot and 66 per cent of employees or the membership have voted in favour of it.

But if you had a multitude of little unions established in connection with separately established bargaining unit, as is suggested in the legislation, then they could make their own collective agreements; they would have to negotiate with the railways and they could make their own constitutions, which govern their own actions. It all depends upon the degree of responsibility they feel toward one another in their own particular little group.

Mr. Régimbal: You referred a couple of times at least to fragmentation leading to a whole series of independent unions, but does the same apply in the case of two main federations, for example the CNTU and the CBRT? It does not necessarily mean that all unions will be broken apart into individual units.

Mr. W. J. Smith: But the legislation says, "as long as it is an established bargaining unit", and I can only assume that it is going to mean that so long as it is a station or a freight shed it is a separately-constituted establishment.

Mr. Régimbal: I am just wondering whether or not you fellows are developing an inferiority complex. You state on page 20:

If Bill C-186 is enacted, they will probably be faced with some kind of rail crisis every two or three months, or even weeks.

Now this theme was repeated by the CLC and by the Quebec Federation of Labour, but what makes you say that the adoption of Bill C-186 necessarily means that the CNTU will be able to get the majority which they want.

Mr. W. J. Smith: We are not so much concerned about the CNTU, what we are concerned about is all of the other little dissident groups that you may have in particular locations—dissident in the sense that they are dissatisfied with some of the national over-all policy that the union is pursuing. I mentioned the question of the truck drivers in Vancouver. They are not CNTU but they are dissatisfied because although we have a national truck drivers rate it is not a Vancouver rate, which is higher than the national. The same thing could apply to our clerical and freight shed people in Sarnia whose warehousemen in the railway sheds are inferior to those in the warehouses of the Dow Chemical of Canada Limited or the Polymer Corporation. They are dissatisfied with our rates because we have negotiated national rates. So what do they do? They are

a separately-established bargaining establishment and they will proceed to establish their own union and get certification under the legislation. Consequently, all these elements across the country would be in constant contention and that is the reason we say the possibility is there. You could be faced with some kind of a crisis because when a group of railway workers in a given location goes out it breaks the link in the chain, and I think that was clearly demonstrated when that group of workers dissatisfied with the railway's run-throughs at Capreol went out on a wildcat strike and severed the whole Canadian National Railways rail system, which forced Parliament to intervene, enact legislation and set up Justice Freedman as an inquiry commissioner. Just one little group can sever the whole transcontinental link. The same thing applies to our seaway. If the locks at Cornwall go into a separate organization and a separately-established bargaining unit and get into disagreement it would tie up the whole canal system.

Mr. McKinley: May I ask a supplementary. Would this not play havoc with the portability of the seniority positions...

Mr. W. J. Smith: Oh, precisely.

Mr. McKinley: ...all the way through, and is not this a big factor?

Mr. W. J. Smith: Certainly it is.

Mr. McKinley: Is it not as much benefit to the people concerned as any right to strike would be?

Mr. W. J. Smith: Yes, most decidedly. We place a tremendous value on the mobility and the right to be able to exercise seniority at other locations and other stations.

Mr. Régimbal: That is precisely the point I am making though, that this is a selling point which you have.

Mr. W. J. Smith: Yes, but it does not override a small wage packet which does not compare with the particular instances I pointed out.

Mr. Régimbal: You were talking for instance of the MTC this morning, the switch that was made there, and you mentioned these 12-13 cent differentials. There must have been some other reason for the switch. Can you specify any of them?

Mr. W. J. Smith: You mean the tramway people?

Mr. Régimbal: Yes.

Mr. W. J. Smith: Oh, we lost them by a very narrow vote.

Mr. Régimbal: But it certainly was not on the strength alone of the 12 or 13 cent differential that was offered in the negotiations which followed.

Mr. W. J. Smith: No. I think there were a number of factors that entered into it. One was of course that the policemen in Montreal have their own separate independent organization and a fairly successful operation. They have no responsibilities to any other affiliation or any other association or organization, and consequently they retain all their money without any of these obligations to other sources. I think there was an element within the MTC that felt if they could duplicate this with their own organization, keeping all their own money, they could do some of the things the policemen were doing. I think that was a factor, although, perhaps, not a very important factor. There may have been some basis also in the fact that there was disagreement with decisions some of the officers of the Brotherhood have had to make from time to time.

Mr. Régimbal: Was the Montreal content, or the Quebec content, part of the representations or the selling job that you had made...

Mr. W. J. Smith: I do not know. Every officer and every staff man in charge had been elected from their own ranks, and they were all native French speaking; it was not a question of language in this respect.

Mr. Régimbal: Thank you, Mr. Smith.

The Vice-Chairman: Mr. Gray is next on the list as Mr. Clermont is not here yet.

Mr. Gray: Because I have already had at least a partial turn this morning at questioning Mr. Walter, and as long as I preserve my right to question, I would be happy to let someone else proceed; otherwise I will continue.

The Vice-Chairman: Mr. McKinley?

Mr. McKinley: I am just wondering, because you are disturbed by what is in this Bill enabling bargaining units to be set up in

small places, and so on, has not the Board the power now to do that sort of thing if they see fit?

Mr. W. J. Smith: Yes, they have, and many, many applications have been made, including those of my own organization, but they have all been rejected down through the years as being an unwise policy.

Mr. Gray: On a point of clarification, all of them have not been rejected.

Mr. Ormiston: You did not see all of them.

Mr. McKinley: I take it that you are interpreting this Bill as more or less giving the Board direction to pay much more attention to that sort of application.

Mr. W. J. Smith: Exactly. How can it be interpreted otherwise? The Board has the authority now to determine what constitutes an appropriate bargaining unit.

Mr. McKinley: That is what I thought.

Mr. W. J. Smith: Parliament is now saying to the Board, "What you have been doing in this regard is not so; it should be on this basis, and furthermore, if you still disagree with us, then we are setting up an appeal tribunal that will have the opportunity to overrule you". This is how the Bill appears to us, and I do not think we are wrong in our conclusions on that score; that is what it is intended for.

The Vice-Chairman: Are you finished Mr. McKinley?

Mr. McKinley: Yes.

The Vice-Chairman: Next on the list are Mr. Leboe, Mr. Guay and I. Mr. Leboe and Mr. Guay are not here so would you like to ask a question, Mr. Reid?

Mr. Reid: Yes, I would like to ask a series of questions dealing with the appeal clause, Mr. Chairman.

• 1605

One of the arguments put forward at Committee meetings has been that the appeal clause changes the nature of the Canadian Labour Relations Board from one based on interest groups to one based on public interest. The reason for this interpretation, as indicated to us, has been that the individuals making up the Appeal Board, in conjunction with the chairman, would not be connected in any way with either the labour movement

or with management, they would be representing the public interest. Would you have any objections to that kind of a board if it could be accomplished in another way, or are you unalterably wedded to the concept of an interest group board?

Mr. W. J. Smith: I think group interest boards have proved quite satisfactory in the provincial as well as the federal jurisdiction. However, I think it is still quite possible to get people who are not from the two interested groups, labour and employers, to sit and adjudicate in a fair and equitable manner. I do not say that we have the exclusive...

Mr. Reid: I ask this question of your group particularly because you do have international unions in your organization, and they have corporate experience—if I can use that term with reference to a union—with respect to a public interest board or a tribunal in the United States. I would like to know what the experience of those international unions has been with the public interest boards, as opposed to an interest group board which we have here.

Mr. W. J. Smith: I find it difficult to speak other than from my own experience which is exceedingly limited, of course, because we are a national union. We do not have memberships in the United States.

Mr. Reid: Yes, well I was thinking that perhaps some of your colleagues might be able to make a comment on that.

Mr. W. J. Smith: It is possible Mr. Gibbons could do so.

Mr. A. R. Gibbons (Executive Secretary, Canadian Railway Labour Executives' Association): I think, Mr. Reid, if we were to examine our position since 1948 all of the railway unions, except Bill Smith's organization Canadian Brotherhood of Railway Transport and General Workers are international. In 1957, the Minister of Labour, it was then the hon. Michael Starr, issued an invitation addressed to the General Conference Committee of the Associated Railway Labour Organizations and to, what we called, the National Legislative Committee. In other words these were the two organizations that represented all of the railway unions at that time.

We presented a brief, at his request, on desired amendments to the IRDI Act. I was not there, but I am confident that in discussions among my predecessors and their

associates every section of this Act was gone over in great detail. Naturally, the suggested amendments only dealt with those sections they thought needed to be amended. Nowhere throughout that brief is there any reference to a need to change the representation board as we know it.

We would like to perhaps clear the air with respect to how we operate in Canada in our international unions. We live in Canada and we are under the IRDI Act in Canada. I was a vice-president of the Brotherhood of Locomotive Firemen and Enginemen for eight years, and I did not know the first thing about how my counterpart in the United States operated and I could not have cared less. We live in Canada, we operate in Canada, and those laws applicable to us are the ones that concern us.

Mr. Reid: In other words, you would follow Mr. Winter's admonition to be a good corporate citizen of your host country.

Mr. A. R. Gibbons: That is right, and this is the way we conduct ourselves. Contrary to all of the misrepresentations made with respect to international unions, we are autonomous.

Also we made representations to the task force on industrial relations when we met with them in May. We prepared a brief—all of the railway labour organizations—and we are the biggest group under federal jurisdiction. Again, there is no reference in the brief to a desired amendment to section 9 or the Canada Labour Relations Board. We can make a copy of our brief to the task force available to you, if it is the wish of the Committee.

• 1610

Nowhere do we make any reference to this particular point, because we think it has proved satisfactory and we find ourselves in complete harmony with the Board's decisions. I quoted one case this morning. This is only one case, but if you examine their decisions you will find there are many wherein they say:

"The Board is of the opinion that ordinarily it is not conducive to stable labour relations or orderly collective bargaining negotiations to subdivide a well established craft unit of employees found to be an appropriate unit by the Board, into several units consisting of segments of the same craft group of employees. Consequently in any particular case

where it is sought to do this, convincing ground for so doing should be established".

We find ourselves in complete harmony with that. It has proved successful, and as Mr. Smith pointed out, the incidence of strikes in the railway industry is proof positive of the fact that we do indeed have stability. In 1950 we went on strike for a 40 hour week, and we won, which justified the strike. Again in 1959 we were prevented from going on strike by a bill saying "Thou shalt not do"; but, in any event, the subsequent wage increase that was negotiated in that six-month period would have justified the strike. Again in 1966 justification for the strike was very obvious. What we were saying here is that you are establishing a policy of fragmentation. There is no doubt whatsoever in our minds—and we might as well get it on the record once and for all—that the intent of the amendment to section 9 is to tell the Board that despite the fact that it has had the broadest and most discretionary powers in establishing units on a regional, local, geographical, or any conceivable basis, you think the time has come for it to give more recognition to the criteria that you establish in the amendment, and that if it insists—as has been said over and over again—on retaining or maintaining the philosophy that it has on national bargaining units you will expose its decisions to an appeal procedure.

We can see only one purpose in this Bill, and the principle is wrong. The principle is to create a situation that will lead to the fragmentation of national bargaining units.

We are not pointing the finger at the CNTU when we talk about the consequences. We are talking about the teamsters or any dissident group within our union. As we have all said, "We all have them, and God bless them. That is what keeps us ahead". They prevent apathy from setting in in trade union leadership. The dissident groups keep you going. But had those dissident groups had an opportunity like this to break away then instead of having to legislate, say, three times since 1950 on railway strikes you would have had to do a great deal more. Just talking from the point of view of "wildcat" stoppages you would have had a tremendous increase in the incidence of strikes.

Mr. Reid: I asked you about the U.S. Board because I thought that in passing you

might have picked up something from your colleagues on the other side.

To deal with the rest of your answer, I think it is fair to say that there are two things that we are concerned about and which this bill is supposedly designed to attack. One is the question of justice being done, or appearing to be done, for those groups appearing before the Board. The CNTU has put it quite bluntly. They felt that they were not going to get any justice as long as there Board.

It may well be that with the setting up of some alternate procedure, by which justice can seem to be done as well as be done—such as the public interest board—they might be prepared to accept their defeat because of the primacy and necessity of national bargaining units. I am prepared to accept that argument.

The second question that we are trying to deal with is that of the appropriateness of the bargaining unit. So my opinion of what we should be tackling in this Bill is the first question and not the second. That is why I am putting to you the concept of a public interest board with a different approach to the decision-making process.

Mr. A. R. Gibbons: I do not think we should be called upon to answer that question. It is really hypothetical.

Mr. Reid: It is not a hypothetical question.

Mr. A. R. Gibbons: It is, in so far as we were asked to deal with the subject matter of Bill C-186 in our representation. We have dealt with the various clauses that are in Bill C-186.

• 1615

If you are going to draft another bill for consideration in the future and propose to examine that as a possibility, then we would have to deal with it when you have thought it through.

Mr. Reid: In my own way, I was trying to congratulate you and your colleagues on the case that you have put forward today for the national bargaining units.

I am suggesting that the problem we have to face is that of the appearance of justice being done. If the proposals in this Bill are not adequate to do the job without creating a great many other problems which

we may not care to tackle, then this Committee, if it accepts that argument, is going to have the responsibility of producing an alternative.

In the course of the hearings we have been putting a number of alternative suggestions to the witnesses who have appeared before us. I am really going through that same exercise with you.

Mr. A. R. Gibbons: We have not considered the alternative.

Mr. McKinley: Is it not just as important for justice to appear to be done as for justice to be done?

Mr. Gray: I think Mr. McKinley is making a very good point.

An hon. Member: What is the point?

The Chairman: I think I agree with Mr. McKinley.

Mr. Reid: That is correct.

The Chairman: Have you finished, Mr. Reid?

Mr. Reid: I thought Mr. Smith was going to answer on that point.

Mr. W. J. Smith: You suggest that the Board be composed of non-interest groups from disinterested parties?

I read in the newspapers the other night the blast that was directed by the President of the CNTU, Mr. Pepin, at the only public non-interest person on the Canada Labour Relations Board, who happens to be the Chairman, Mr. Brown. He was just a senile, biased old gentleman and I use the term "gentleman" reservedly, as I interpret what he said.

It does seem to me that whether they are a public interest group or composed of group-interest people, unless they accept their submissions they are biased or senile or prejudiced. How do you convince these people that justice is being done?

Mr. Reid: I think their argument is that on the labour side you do not go before a Board that is weighted three to one against you. Whether or not that is so—and there is certainly evidence to demonstrate this is not always the case—what has happened is that it seems to have become one of the myths under which they operate. They all operate under myths.

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What I am seeking to do is to find some alternative solution which will get us out of the bind we are in, which is caused by the fact that we are dealing with, first, the appropriateness of bargaining units, and, secondly, the fact that one party to these units does not feel that its case has been fairly heard and been given a proper judgment.

I am appealing to you to help us in this situation.

Mr. W. J. Smith: That is not the question before us. What is before us, if I may put it in my terms, is simply a direction by Parliament to the Canada Labour Relations Board, or to any board that may succeed it, be it an interest-group or a disinterested group. It is a direction.

Mr. Reid: I agree; but I am trying to tell you what the bill is supposed to do. If the bill is not going to do that, whether in our opinion or in yours then it should be scrapped in favour of something else that will do the job.

Mr. A. R. Gibbons: You just went one step too far, in our opinion, Mr. Reid.

Mr. McKinley: Have you any suggestions?

Mr. Reid: I have been trying to put forward the concept of a public interest board made up of a neutral chairman and perhaps two, or three, or five people not connected with any interest group.

Another solution put forward was the so-called Quebec solution, by which the board is made up of a number of employees and employers and when a dispute comes before it the chairman, after listening to the arguments bounce back and forth, retires and makes up his own mind. In other words, it is not done on the basis of a vote.

I intended to present the alternatives to you gentlemen in a more or less orderly fashion and then ask if you had any other ideas.

Mr. Ormiston: Why not let the courts handle it?

Mr. W. J. Smith: If the question is directed to me...

Mr. Reid: I do not draw up government legislation.

Mr. Ormiston: No; but you are partly responsible for it.

Mr. MacEwan: If it is drawn up, it will have to be drawn up by the government, not by this Committee.

Mr. Reid: Mr. Chairman, if I may I will say to Mr. MacEwan that what is before this Committee is not the Bill but a subject matter of it. We will be asked to make a report on it. We can report back that the bill should be scrapped and suggest it be handled along other lines.

Mr. A. R. Gibbons: We have what we consider a reasonable suggestion to make. When the government task force was appointed we assured the government that we would co-operate with it and prepare a brief on the whole philosophy of collective bargaining besides the actual legislation that governs our labour industrial relations in the federal field in Canada.

I am sure you have all seen the report of the committee. They are conducting some 55 or 56 general studies. In addition to that they are carrying out over 20 studies on individual industries, one of which is the railway industry. A man from the University of London or Western University—one or the other—has been assigned to do that specific study. We say, with all due respect, that the government and your Committee are premature in considering this Bill and any alternatives to it. You should seek the information that will be available after the task force has completed its studies. This was our recommendation to the government when we met with them on February 13.

We think it is a perfectly tenable position for your Committee to take in view of the complexities of the studies of the task force. After they studied the situation for one year all they could do was make a progress report and inherent in that report is the fact that the complexity of the problems is so great that they cannot make a report to the Prime Minister until late 1968.

But here the government has introduced a piece of legislation that we view as cutting right across the very assignment that the task force has. We suggest that this is premature and recommend that this whole matter be held in abeyance until the task force examines all of the industrial relations in the broadest sense. Who knows but that we might come up with a completely different philosophy that has not yet been placed on the record of your Proceedings?

With all due respect we suggest this as the alternative, rather than asking us cold, if I may say so, to offer an opinion about public panel boards and the like. We have not studied; we are not prepared to answer.

Mr. Reid: That is fine; I accept that, Mr. Chairman. Obviously there is no sense in proceeding in this direction. I will pass.

Mr. McKinley: I have a supplementary. Have you any idea what is going to be in the task force report?

Mr. A. R. Gibbons: No, none whatsoever. We met with the task force at their invitation last Friday in Montreal to review the brief that we had put in. We met them first on May 13, then we prepared a brief which had to be in their hands before the end of December, and then we met with them again last week to discuss our brief in further detail. They do not know themselves yet. They have not even started putting the report together because all of their studies are not yet completed, so we have no idea what the task force report will contain.

Mr. McKinley: Thank you.

Mr. A. R. Gibbons: But I suggest, with all due respect, that the libraries of the universities across this country are going to be replete with some heavily in-depth studies of industrial relations and their sociological aspects. Everything you can think of is being studied by that task force.

The Chairman: Are you satisfied that the type of people on the task force are well qualified to give sound judgments on matters of industrial relations?

Mr. A. R. Gibbons: With one reservation; I am sure you know that they have two consultative groups. One is comprised of the labour-management subcommittee of the Economic Council expanded to include other management and labour people, and an inter-departmental committee of the government. We had the opportunity to look at the interim report that was produced.

Then there is the other reservation that all they can do is recommend. After all, it is only a commission and its report will still be exposed to study by the government, and they are experts. But out of it all I think there will be something worthwhile.

• 1625

Mr. McKinley: Would you be prepared to accept a bill on the basis of what the task force reports?

Mr. A. R. Gibbons: No, no, because I do not know what they are going to report; I am certainly not giving carte blanche in that direction.

[Translation]

Mr. Émard: Mr. Chairman, up to the end of the last war, it was recognized that of all trades, railway employees were the highest paid workers.

How would you explain the fact that since the war, the salaries of railway employees have not risen as fast as those of the workers in other industries?

[English]

Mr. W. J. Smith: I think there are two basic facts, one of which is that it is a highly regulated industry. There is a Board of Transport Commissioners that has governed the industry. What rates you can charge for its services, what services it can supply and what it can discontinue are all highly regulated in the industry by government bodies. This has placed tremendous restrictions on management in the sense of developing the industry in the most modern form, and consequently it has made our approach to the railways for more money and better conditions difficult to get recognized.

The other factor is the fact that Parliament and the government of the day have stepped in every time we have tried to exercise the only power we have, as Mr. Gibbons has said. They ended our strike in 1950, they ended it in 1966 and in 1960 they prohibited us from going out. They passed the legislation before we had a chance to get out and exercise our authority.

All of these have had a retarding effect and have prevented us from moving as freely as many of the other industries have been able to do. And I might say this also was applicable all through the years from the time of the Godbout Government in Quebec right up until the CNTU took the Montreal Transportation Commission employees away from our brotherhood. Only in the month of September I believe, did the Lesage Government give the employees in the public transportation service the authority to exercise their right to strike. During all the years prior to that when we represented the employees, we were hobbled by the fact that we were not allowed to strike under the legislation of the Province of Quebec.

These are the retarding aspects that have kept us from being able to act as freely, independently and vigorously as have some

of the organizations in other industries not regulated by management and not interfered with by government in the exercise of their rights to strike.

[Translation]

Mr. Émard: Do you not admit that according to the present type of administration, it is exceedingly difficult for members of your union, or of any other union of railway employees who are dissatisfied to change union affiliation?

[English]

Mr. W. J. Smith: They have the right now to change to a new union if they so desire.

[Translation]

Mr. Émard: They have the right, but are they able to do so?

[English]

Mr. W. J. Smith: No, I do not think it is easy at any time to organize workers into a union regardless of whether it involves changing unions or the establishment of them in an entirely unorganized industry. It is not easy.

[Translation]

Mr. Émard: In answering a similar question asked by Mr. Reid this morning, you explained that dissatisfied members could have elected officials replaced. It would seem impossible, however, to change unions without having to organize a country-wide campaign. You will admit that this is practically impossible.

Do you believe that the creation of a national rival union not belonging to the CLC would be beneficial to the Canadian workers?

[English]

Mr. W. J. Smith: A national one?

Mr. Émard: Yes.

Mr. W. J. Smith: We have never argued that point. We have always said that if the CNTU wants to raid the membership of one of our organizations under the same ground rules, then they are free to do that because those are the ground rules. But what we deplore is the fact that they want to cut off a segment which will be to nobody's advantage in the long run.

[Translation]

Mr. Émard: I agree with you. But at the present time, there exists no national union outside of the scope of the CLC; is this not right?

[English]

Mr. A. R. Gibbons: The CBRT & GW.

Mr. W. J. Smith: No, our organization is a national union. We do not have any members outside of this country.

[Translation]

Mr. Émard: You are affiliated to the CLC.

Mr. W. J. Smith: Yes.

Mr. Émard: Outside of the CLC, there exists no national union in Canada.

[English]

Mr. A. R. Gibbons: The engineers represented by the Brotherhood of Locomotive Engineers, are not affiliated with the Canadian Labour Congress. They are independent. Mr. J. F. Walter presented a brief to this Committee this morning on their behalf.

[Translation]

Mr. Émard: Yes, but they are confined to a type of work which is only that of the engineers, is that not true?

[English]

Mr. A. R. Gibbons: Not necessarily, I represented locomotive firemen and engineers for many years and during the eight years that I was the Vice-President, I think we were before the Canada Labour Relations Board at least once a year on inter-union disputes—requests for certification—involving our attempts to take over engineers or their attempts to take over firemen.

[Translation]

Mr. Émard: But does this union represent other workers than those of the railway companies?

[English]

Mr. A. R. Gibbons: No.

Mr. Barnett: You have made a good point for the existence of the Teamsters which is another union with membership across Canada that is not affiliated with the CLC.

[Translation]

Mr. Émard: We cannot refer to the teamsters union as being national. In fact, there is district 50 which exists, and in Vancouver

there is also a group of teamsters. It is therefore not a union which really represents all the Canadian workers throughout the country. By the same token, the CNTU in the province of Quebec cannot be considered as a national union, a union national in scope.

[English]

Mr. A. R. Gibbons: But there are independent unions who go before the Board. By independent I mean not affiliated with the Canadian Labour Congress.

You are correct in saying that perhaps we have the largest group of unions that are national in scope, but there are many independent unions that unions go before the Canada Labour Relations Board in certification questions against another organization which is an affiliated union. You are right in assuming that we are probably the largest group with national bargaining units.

[Translation]

Mr. Émard: The present regulations of the CLC warrant specify that such or such a union has jurisdiction over a certain class of workers, and if a rival union attempts to recruit dissatisfied members of a union belonging to the CLC, it may meet with reprisals; in other words, it is apt to get expelled from the CLC. Is this not right?

[English]

Mr. A. R. Gibbons: I would not say that this is a fact because it exposes itself to the machinery that affiliates of the Congress in convention have set up to deal with what we refer to as interjurisdictional disputes. They are the authors of that machinery. They have transmitted to the Canadian Labour Congress, not autonomy, but the authority to set up a disputes procedure, which includes mediation by one of a panel of mediators who are officers of the affiliated unions. If he fails to mediate, then it can go to an impartial umpire who, at the present time, is Mr. Carl Goldenberg. There is an appeal provision against his decision to a subcommittee of the Executive Council of the Congress, and depending on which way that goes, the final expulsion can only be handled at a convention. The Council itself does not have the authority to expel. In other words, the expulsion has to be justified at the convention. That is the disputes procedure.

• 1635

[Translation]

Mr. Émard: Do you not believe that according to the present structure of the CLC, the unions have set up a sort of game preserve?

[English]

Mr. A. R. Gibbons: No, I do not think so. If order is going to be brought into the labour movement, we do not feel we have gone far enough along the road, yet, in that direction. We would like to see a complete end to jurisdictional disputes. We are not happy with it. We would like to see an end to it, but the Canadian Labour Congress can only obtain its authority from its affiliated unions in convention. How long it might take to get the additional authority required for them to be able to say, "You go there, and you go there, period," I would not even venture a guess.

[Translation]

Mr. Émard: Did the CLC ever approach the CNTU in order to bring it within the CLC organization?

[English]

Mr. A. R. Gibbons: I think, on several occasions our officers have extended an invitation, and, in fact, there have been meetings between the CNTU and the CLC in an attempt to come up with some kind of a working relationship but they have not borne fruit.

[Translation]

Mr. Gray: Mr. Émard, may I ask a question for clarification?

[English]

Mr. Gibbons, I saw a report in the press last week that the Quebec Federation of Labour, which is the Quebec provincial arm of the CLC, the CNTU and the Quebec Federation of Teachers—at least, their respective executives—had worked out the terms of a no-raiding pact, which I suspect is merely for that province and which, if I recall the press report correctly, was going to be submitted to the respective affiliated bodies. I was going to suggest when I took my turn at questioning, Mr. Chairman—I passed because I had already had a brief turn at Mr. Walter and I did not want to preclude others from having a full chance—that we might try to find out, either by letter, by communication by yourself or by recalling some witnesses, just

what the terms of this pact are, even before it is considered by the affiliated unions making up these central labour bodies in the Province of Quebec. It struck me that it would be most significant if the QFL, which is affiliated with the CLC, and the CNTU in the Province of Quebec, work out a no-raiding pact which to a large degree would cover in a slightly different way the same area of contention with respect to bargaining units which is the subject matter of this Bill. If this were the case it would be most useful to find out whether or not it could be extended to the federal sphere and this will provide a basis, or at least another basis, for removing the area of contention which, rightly or wrongly, has led to this Bill being before us.

Mr. A. R. Gibbons: Mr. Gray, I have to be careful when answering because I am sure you will appreciate that the Quebec Federation of Labour is chartered by the Canadian Labour Congress. We know that these discussions have been going on...

Mr. Gray: Yes.

Mr. A. R. Gibbons: ... but the ratification does not work downwards in this situation. That ratification or approval will have to come from the Canadian Labour Congress not from the affiliated unions of the Quebec Federation of Labour. They are not autonomous in that respect—arriving at working relationships and the like of that. There have been instances—I think you will find them in Mr. Laberge's presentation, not in the brief itself, but in his replies during the question period—where they have worked jointly with the CNTU on specific issues. This has been done.

Mr. Gray: I did not expect you would be in a position to give us a detailed answer, Mr. Gibbons, but I thought it would be useful at this point to bring this to the attention of the Committee with the suggestion that we all might seek some means of finding out more about this. Because if the executives, at least, of these two labour bodies within the province of Quebec—of course the same practise is, in a sense, at issue here—have worked out the terms of such a pact, it would be useful for all of us to find out to what extent it is, or can be, extended to the federal labour relations sphere. That is really why I prevailed upon the good nature of Mr. Émard and yourself to raise this at this time; I did not really feel that you should be put in the position of commenting in detail on it. Thank you, Mr. Émard.

• 1640

The Chairman: Mr. Émard?

[Translation]

Mr. Émard: There was a lengthy discussion concerning union representation on the CLRB, but if I remember correctly, during the first years and for many years, the representatives recommended by the government and chosen by different public bodies, were completely different one from the other. For instance, one person represented the American Federation of Labour—I believe that it was called in Canada “The Trades and Labour Council”. Another one represented the CIO. I cannot remember the name of the affiliation, however.

[English]

Mr. A. R. Gibbons: I think we have given you our answer with respect to the solution that is put forth in Bill No. C-186. With all due respect, we do not look upon this as a solution. The first one was William L. Best, who was a member of the old wartime Labour Relations Board; then when he died, the present member, Mr. Archie Balch, who is a former vice-president of the Brotherhood of Railway Trainmen, was the railway group's nominee. But I can truthfully say that in the eight years when I was going before the Canada Labour Relations Board, never once did I have a conversation with Mr. Balch. I think it would be extremely presumptuous of any individual to go to a member of the Board and try to give him preconceived notions as to how we should deal with a case. In eight years I have never known the experience. We join with others who have said that although we respect and appreciate the right to place in nomination people of experience for positions on these representative boards, that is where it ends. We expect them to fulfil the obligation they take under an oath of office, to fill that office and deal with each situation on the circumstances that prevail and with impartiality. I think the record that has been placed before you, if I may say—the record that I have read, anyway, in the proceedings—would indicate that this has been the case and that the Board is above reproach in this respect.

The Chairman: May I ask a supplementary question on that? Mr. Gibbons, I do not know whether you can answer this, but do you know of an instance where the nominees of the CLC affiliates have been nominees from outside the union itself for membership in the union?

Mr. A. R. Gibbons: No.

The Chairman: Or have they all been members of the union, or members of the Brotherhood?

Mr. A. R. Gibbons: As far as I know, the members of the—I do not like the word “representative” because I saw somebody else get caught up in that the other day—those who have been nominated from labour came from unions affiliated with the CLC, at least with respect to their nominee and ours. The only two we have had were Mr. Best, who was a former vice-president of the Firemen and Engine-men, and Mr. Balch, a former vice-president of the Brotherhood of Railway Trainmen. I do not know of others who could be said to have come from employees, in the true sense of the word. Nomination was asked for and accepted.

[Translation]

Mr. Émard: There was a representative of the railway employees and a representative of the CNTU. Three of these groups are now united to the CLC and this is certainly not because of the Government. If the CNTU finds itself in a situation which is embarrassing for it in the fact that it feels that it is alone against three, this situation should perhaps be revised, and that, I believe, is what Bill C-186 is suggesting. This is good unless another solution is found.

• 1645

[English]

Mr. W. J. Smith: Yes.

[Translation]

Mr. Émard: Mr. Chairman, in listening to Mr. Smith's comments this morning, I understood that joint bargaining would be impossible with the CNTU. Is it what you believe, Mr. Smith?

[English]

Mr. W. J. Smith: No, we have never negotiated jointly with them; not for 40 years. I think it was during the strike of 1950 that we and another independent union which is now merged with one of the existing international unions, the Brotherhood of Express Employees, which represented the Canadian Pacific Railway Express, formally joined together for the purpose of negotiating the five-day 40-hour week and seven-cents-an-hour wage increase. The other railway unions, non-operating railway unions, did join together and pursued the same set of demands. As you know, it became history

that there was a strike called. We came together just on the eve of that strike's taking place and joined our two negotiating teams. Ours was headed by Mr. A. R. Mosher, who is now deceased, and the other was headed by Mr. F. H. Hall—Frank Hall.

[Translation]

Mr. Émard: During the twenty years preceding the merging of the AF of L with the CIO, have you had joint bargaining with certain unions which were not affiliated among themselves?

[English]

Mr. W. J. Smith: The first joint movement was in 1936. Through the 1932-1934 period there had been imposed a wage reduction of 10 per cent and then a further 5 per cent. In 1936, the unions all joined together to endeavour to try to secure the return of that 15 per cent wage reduction. As a result of a strike threat in the spring of 1937, an agreement was reached with the railways for a gradual return of that wage reduction. That was the first coming together, jointly, of unions. Now, that did not include our Brotherhood.

Mr. J. H. Clark (President, Division No. 4, Railway Employees Department, Canadian Railway Labour Executives' Association): Outside of the shop crafts, they had been negotiating since 1906.

Mr. W. J. Smith: Yes, this should be understood. There are joint negotiations of the shop crafts known as Division No. 4 which is all of the skilled tradesmen and their helpers joined together in negotiating one single collective agreement.

[Translation]

Mr. Émard: But surely prior to the AF of L-CIO merging, certain unions did have joint bargaining. Certain unions belonging to the American Federation of Labour and other belonging to the CIO must have united for joint bargaining, have they not?

[English]

Mr. A. R. Gibbons: It is not applicable in the railway industry, because there were no CIO unions in the railway industry. We were all organized on a craft basis. Therefore, your question is not applicable; there was no opportunity.

[Translation]

Mr. Émard: But in the past, this could not be done. I want to know if it is a case of

unions affiliated to the American Federation of Labour, and others affiliated to the CIO, after 1937, because the CIO separated from the AF of L in 1936 or 1937, if I remember correctly.

[English]

Mr. A. R. Gibbons: This is where the Canadian Brotherhood came in.

Mr. W. J. Smith: Yes, it was our organization and Frank Hall's organization but it did not represent skilled tradesmen.

[Translation]

Mr. Émard: Were the workers who did not belong to trade groups represented?

[English]

Mr. W. J. Smith: Not necessarily. All the railway non-operating unions' agreements come open this fall. Our membership are meeting in their various regions this coming spring at which time they will formulate a set of proposals for consideration of the central authorities of their organization and then these proposals, if approved, will be submitted to railway management. But any one of the unions can go its own independent way. Division 4 could go its own way, the maintenance of way could go its own way, negotiate and say they do not agree with the over-all set of demands, that they have their own particular set of demands which are peculiar or more desirable to them and they are going to negotiate them separately. They can still do this, but we have found by experience that we can advance our interests much more capably collectively than we can as individual units.

• 1650

[Translation]

Mr. Émard: What would happen, for instance, if the CNTU were really an international union, and if, being an international union, it succeeded in grouping a certain number of members who may belong to your union? In that case you would have to go for joint bargaining, in other words to form a coalition, would you not?

[English]

Mr. J. H. Clark: The seven organizations that are banded together under one particular agreement, and it is a national agreement.

[Translation]

Mr. Émard: What do you mean by "Division No. 4?"

[English]

Mr. J. H. Clark: It represents the International Association of Machinists and Aerospace Workers, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers of America, the Brotherhood of Railway Carmen of America, the International Brotherhood of Electrical Workers, the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, International Molders' and Allied Workers' Union and the Sheet Metal Workers' International Association. They are the maintenance workers for the railway equipment.

[Translation]

Mr. Émard: But who represents what in particular?

[English]

Mr. A. R. Gibbons: Yes, those seven are in the same unit actually, and they negotiate one collective agreement.

[Translation]

Mr. Émard: At the present time, if I understand correctly, all the unions negotiate together?

Mr. Clark: Yes.

Mr. Émard: But when a certain union negotiates an agreement and that the increase in wages is higher than that which an other union has negotiated, does this not create a kind of competition which would be beneficial to the workers?

[English]

Mr. A. R. Gibbons: Well maybe a classic example would be the Brotherhood of Railway Trainmen. Their contract was open about the same time as the non-operating group which included Division 4 and what we now refer to as the other non-ops, and Mr. Smith's organization. Their contracts came open at the same time but they did not negotiate together. They negotiated individually but they became part of the same group that were affected by the strike in 1966, the legislation identified them as one of the organizations involved in the strike and, therefore, the compulsory aspect of the legislation was applicable to them as well. So in those circumstances they came out with a settlement but the Brotherhood of Locomotive Engineers were still left open to negoti-

ate on its own, and the Brotherhood of Locomotive Firemen and Enginemen have to this date not yet settled their collective agreement because it is still in the process of conciliation. So the pattern is not always there.

The Chairman: Mr. Gray is next because he was passed earlier and then there is Mr. McKinley and Mr. MacEwen.

Mr. Clermont: was meant to go on much earlier. Have you not got on yet, Mr. Clermont?

[Translation]

Mr. Clermont: Thank you Mr. Chairman. I can wait because I was not present at the beginning of the meeting. I was in the House listening to the Prime minister of Canada.

[English]

The Chairman: We will put you back on. We have not heard from Mr. McKinley.

[Translation]

Mr. Clermont: Mr. Lewis has given the same reason as I did to justify his absence this afternoon. I heard certain whispers in the back. Mr. Lewis has invoked the same reason as I to say that he was not present at the beginning of the meeting.

[English]

The Chairman: Why do we not do this on an equitable basis. We will hear Mr. McKinley, Mr. Gray, Mr. MacEwan and Mr. Clermont.

[Translation]

Mr. Clermont: In any case, Mr. Chairman I have no apologies to make, because in my opinion, I am an assiduous member of the Standing Committee on Labour and Employment. I do not have to receive a lesson from anybody.

[English]

Mr. Barnett: I think I can clarify it by saying that Mr. Lewis may be following the Prime Minister with a speech.

Mr. Clermont: Not exactly because Mr. Bell is following the Prime Minister.

Mr. Barnett: Later on, I meant.

The Chairman: Well no matter what is happening in the House of Commons, it is in the national interest.

Mr. Gray, we will start with you and see what happens.

Mr. Gray: I have a comment on the response you gentlemen made to Mr. Reid's attempt to put before you various alternative approaches to proposed Bill C-186.

While I think that you cannot be criticized for the fact that you did not come forward with detailed alternative proposals, because it is true you were not expressly requested to do so, I personally would have hoped that in addition to merely opposing Bill C-186, which you are entitled to do, that this opposition would have as a basis something in the way of a more positive approach with respect to more specific ideas on how to resolve some of the issues that have brought this Bill before us. And I must say, speaking as a person who is not mesmerized by the concept of appointed groups, whether they be task forces or royal commissions, and as one who feels that as an elected representative I, and others like me, have the ultimate of responsibility and accountability for making decisions in these matters, that you could have been particularly helpful when recognizing the priorities, if I may put it that way, of the elected representatives of the people of Canada over some appointed body no matter how prestigious, and perhaps been prepared to comment with respect to some of these alternative proposals.

Mr. A. R. Gibbons: May I respond to that, Mr. Gray?

Mr. Gray: Yes.

Mr. A. R. Gibbons: In all due respect, we put your interests way up and gave you top priority with respect to the excellent recommendations that were made by Justice Freedman, regarding residual rights, and we asked the Prime Minister, the Minister of Labour, the Minister of Transport, and everybody that would give us their attention for one minute, to accept Freedman's recommendations and to implement them in legislation by a specific amendment to the IRDI Act, Section 22, and we were told at that time that because the task force had been created that these and other related matters would be subject to their consideration. So you cannot have it both ways, Mr. Gray. In all due respect, when we received the notice that this Committee was going to be sitting nobody suggested that we should come in with alternatives to the Bill.

Mr. Gray: No, and I said that myself.

Mr. A. R. Gibbons: I took it that you thought that we were not prepared to offer alternatives because we have never given any consideration to them, and I have tried to be absolutely honest in that. We dealt with numerous detailed amendments to the actual Act, and we made that presentation to the task force because the government saw to set it up.

Mr. Gray: Did any of these recommendations or presentations to the task force cover a method of dealing with contested cases where the issue was the appropriateness of the bargaining unit?

Mr. A. R. Gibbons: No.

Mr. Gray: I said in commencing my comment, Mr. Gibbons, that since you were not specifically requested to come forward with alternative proposals I could not really criticize you particularly for not having written documents or firm statements to pass around, but I would have thought in saying what you do not like about a particular piece of legislation designed to deal with a particular issue that you would have some ideas on how to deal with it. All you apparently are saying to us and particularly to Mr. Reid is that we want to wait and see what the task force comes up with and I suppose this is a valid approach.

Mr. A. R. Gibbons: No, that is not what I said to Mr. Reid. I said, with all due respect Mr. Gray, that in 1957 our railway group gave minute examination to the IRDI Act and certainly the absence of a recommendation to amend a specific section of a bill means that you are satisfied with the operation of that section. That is what I said to Mr. Reid.

• 1700

However, on all those areas where we felt amendments were required we made representation. We did the same thing with the task force. The answer is that we are completely satisfied with the operation of the Bill. We are not seeking alternatives to the present concepts of the Canada Labour Relations Board.

Mr. Gray: Well, Mr. Smith, on page 8 of his brief, commenting on panels, said:

The minister of labour has stated that the use of panels will permit more equitable representation of the CNTU in matters involving a dispute between that

organization and a CLC affiliate. We are not opposed to this principle, but we question whether it can be implemented by means of panels; all that would happen under this procedure, in our view, is that the CLC and CNTU representatives would cancel each other out, leaving the decision to the chairman.

I felt this was quite an open-minded comment by Mr. Smith if I may say so. I think some very serious arguments, which we have to look at very earnestly, have been made about the weaknesses of the panel system, and I had thought that Mr. Smith, at least, might have had some idea how the principle, which he says he is not opposed to, could be implemented.

Mr. W. J. Smith: We have never given the slightest thought to how it may be implemented. We just made our observations on the Minister of Labour's remarks.

Mr. Gray: I compliment you for the open-minded or fair-minded approach you have taken to this, even though I am willing to accept there may be some serious questions about the utility of the proposals on panels.

As I say, I should also point out that whether the task force is set up or not, the House and this Committee have been seized with at least the subject matter of this Bill. We have an obligation to report back to the House not merely that we have held some hearings, but our suggestions. At least, I think we should make some suggestions on how the issues which have given rise to this Bill might be dealt with. I am sure that members of the Committee have already begun thinking about this very important matter. Perhaps that is why we are attempting to add to our own store of knowledge on this matter by seeking the advice of people like yourselves who have a great deal of experience in this type of labour-management situation.

Mr. A. R. Gibbons: I would just like to comment on it. In the second paragraph of our brief we state most emphatically, for reasons which we will set out, that the Bill should not have been introduced. However, inasmuch as it has been introduced we are of the opinion that the responsibility of your Committee is to report back to Parliament that the Bill, if enacted, would cause irreparable and absolute chaos in industrial relations in the federal jurisdiction, particularly

in those industries in which national bargaining prevails. So we have taken a position in that respect.

Mr. Gray: This leads me to the next thing I wanted to ask you about and I think this has been touched on at least in part by others. For the chaos which you have just referred to to take place it would seem to me that two steps would be necessary. First of all, a significant number of groups of workers represented by your unions across Canada would have to come to the Board and file applications to be split off from the existing units. Second, the Board would have to grant all or a significant number of these applications. If neither of these two steps took place then the chaos, which I agree would be most harmful, obviously would not take place. In fact, one of the steps would not be enough, both would have to take place. There would have to be a significant number of groups applying and then their applications would have to be granted.

Mr. A. R. Gibbons: There would not have to be such a significant group because one group in the right place can cause what we term chaos and affect every railway worker in the country. For example, if there were a tie-up at Capreol, where the trains from Toronto and Montreal on the Canadian National Railways converge, you would see how many railway workers across this country would be adversely affected by one group. Back in 1964, one little spot known as Nakina tied things up for justifiable reasons as was proved by an in-depth study by Commissioner Freedman. If you had ever been there, you would wonder why on earth those people were so desirous of staying there.

Mr. Reid: I agree.

Mr. A. R. Gibbons: But God bless them, they wanted to stay there and that was their right.

Mr. Gray: They wanted to be represented by Mr. Reid.

• 1705

Mr. A. R. Gibbons: I think Fisher was there at that time, was he not?

Mr. Reid: Yes.

Mr. A. R. Gibbons: In any event those people completely tied up the Canadian National Railways, so there would not have to be a significant number of groups. We say if

you tie one situation up, that is significant as opposed to what we have now.

Mr. Gray: Well, do you not think that the facts, as you have put them, persuasively and strongly, would be taken into account first by the Board, and if necessary, by the appeal division, if this Act should happen to be passed by Parliament in its present form?

Mr. A. R. Gibbons: All we are saying is why expose us to it; why expose everybody to it? The Board, by their own admission, by the admission of the Minister and everybody else, and in the whole concept of national bargaining, has a stability factor inherent in it in two ways, interunion strife in the open period, and labour-management relations. It has built-in stability and we are violently opposed to changing that because we know what we have now. In all truthfulness we would not know what we had if this Bill in any darn form went through. If there were this, what we view as a direction, and it were not accepted, we would be exposed to the panel or the appeal division.

Mr. Gray: What happens if the Appeal Board does not grant the application?

Mr. A. R. Gibbons: Well then we would have the situation we now have. So what on earth is the exercise all about? This is what confuses me when members say the Bill is not really designed to change the authority. Well that is so much gobbledygook because Mr. Pepin has already said, in answer to a question, that he feels their jurisdiction, their discretion, would be somewhat circumvented.

Mr. Gray: Of course, he is entitled to his opinion. He could be mistaken in his support of the Bill...

Mr. A. R. Gibbons: He is the boy who will be before the Canada Labour Relations Board taking on one of us. He will be represented by counsel, very capable counsel, and so will we.

The Chairman: It will be a very interesting match.

Mr. A. R. Gibbons: It sure as heck will. I think the alleged intent of the Bill, as expounded by the Minister, will give a lot of credence to establishing a case for fractionalizing these units.

Mr. Gray: Well, let me interrupt right here, I am sure your counsel will point out to the Board that in the Canadian system of inter-

preting statutes, comments by ministers and people in parliamentary committees and the House of Commons...

Mr. W. J. Smith: Let me deal with that because we have had a very vivid experience with that.

Mr. Gray: Well, with respect to courts, at least, these are not eligible for use in the method of interpreting statutes. It is true the United States courts look at all sorts of comments, they look at briefs by sociologists and all sorts of things. However, from what little I know of these matters, courts particularly, and I think boards as well, have not been willing to look behind what they call the "black letter" of the law to debates in Parliament and discussions in Committee, no matter how helpful it might seem to ordinary people with common sense.

Mr. W. J. Smith: That is precisely the experience we have had. When we went out on strike in 1950 we were ordered back to Parliament under a statute introduced in a special session of Parliament. Parliament was called into special session and they passed it. Now we came out of that with the assurances, we felt, that everybody had got the five-day forty-hour work week including the two groups we were in dispute with. They were the water transport and the hotels of the Canadian National and the Canadian Pacific Railway; that was the big dispute between the railways and ourselves.

Justice Kellock was set up as the arbitrator. He was a Justice of the Supreme Court of Canada at that time. We went before him and we felt so assured because the Prime Minister, Mr. St. Laurent, had stood in Parliament and given assurances that this was not unequal treatment; everybody was being sent back to work on exactly the same terms of settlement. We quoted Hansard and Justice Kellock said: Sit down, Mr. Smith, please sit down. I am not concerned what the Prime Minister said. I am not concerned by what any Member of Parliament said. All I am concerned with is what the collective will of Parliament says in the legislation, that is all! We were stuck, and what happened? We did not get the five-day forty-hour work week for the hotels nor the water transport employees as a result.

• 1710

Mr. Gray: I think, Mr. Smith, you have stated the point perhaps even more effective-

ly than I could have. Again, as Mr. Gibbons said quite forcefully, you cannot have it both ways. You cannot use the comments of people like Marcel Pépin or some cabinet ministers as proof that this Bill will have all sorts of harmful effects and then turn around and say we cannot look at the comments of other people who say it will not have harmful effects because on your principles of interpretation of statutes, you cannot look at those things. You cannot have it both ways.

If you feel the Board is going to look at the comments of people which can be interpreted as calling for a certain use of the proposed amendments, then you have to look at comments of people who take the opposite view. What is actually going to happen, in my view and my limited experience in these matters, is that the Board, just as Mr. Justice Kellock did, will look at neither sets of comments and will look only at the working of the Act itself. While I grant that I can see how fears can be created by the particular construction of the statute, it is equally open to say that if it is a direction at all, it is a direction to give consideration to this, amongst other factors.

Mr. W. J. Smith: What other factors are there in the legislation? I have been looking for the other factors that the Board would have to take into consideration. There is nothing in the Act which says there are other factors that have to be taken into consideration. All it says in clause (4a) is "self-contained".

Mr. A. R. Gibbons: The only criterion they use now, Mr. Gray, is one that was imported from New Zealand and several other countries which is not based on an actual experience. This Bill does not make any reference to other criteria.

Mr. Gray: Neither does the Industrial Relations and Disputes Investigations Act with the exception of section 2(3) which says:

For the purposes of this Act, a "unit" means a group of employees and "appropriate for collective bargaining"...

I think you have already referred to this.

...with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer.

Mr. A. R. Gibbons: That is exactly what we are saying.

Mr. Gray: If I may continue, clause 1, (4a) says merely that:

"(4a) Where the business or activities carried on by an employer are carried on...in more than one self-contained establishment or in more than one local, regional or other distinct geographical area...the Board may, subject to this Act, determine the proposed unit to be a unit appropriate for collective bargaining.

I would suggest that the criteria to which I was referring and the criteria put in evidence by Mr. MacDougall—I think some of you or representatives of your groups were in the audience at the time—are those that will have been built up after all the factors have been taken into account, such as the structure of the industry, the community of interest of the employees and so on.

Mr. W. J. Smith: That is what the Board has been doing ever since its inception.

Mr. Gray: That is right.

Mr. W. J. Smith: Then for what purpose was the amendment introduced?

Mr. Gray: All I am suggesting to you is that when you are before the Board if you cannot use the comments of people like myself, the Minister or Marcel Pépin, one way or another, the only thing the Board will have as a guide is the Act as amended, and there is nothing in the Act as amended which excludes from the consideration of the Board the other criteria which have been stated in other decided cases. I am just pointing out that you cannot have it both ways. You cannot use Marcel Pépin or Mr. Marchand as proof that the Act is going to operate one way and then, as Mr. Smith quite rightly pointed out, use the argument that other comments cannot be used because only the wording of the statute itself may be taken into consideration.

Mr. A. R. Gibbons: This brings us right back to the question—why the amendments? Since you put forth a very persuasive argument that there is no change and I am inclined to agree with you, then let us take it out, and there definitely will be no change. They will have the same authority as they now have. We can forget about the appeals.

Mr. Gray: You may be leading up to one of the—

Mr. A. R. Gibbons: You have gone full circle.

Mr. Gray: —alternate proposals that some of us have been testing here.

Mr. A. R. Gibbons: If this Bill were to become law, could you, as a lawyer, Mr. Gray, envisage testing it in the Supreme Court? We have had to do that on other occasions? A Bill is only a particular grouping of words until it has been tested in the highest court of the land. We have been through this and it cost us a lot of money to find out—the Judgment that Mr. Walter referred to this morning—that in principle the intent and purpose of the section of the Act was to provide compensation, but because of the non-meticulous grammarian who wrote the clause you cannot have the money.

• 1715

Mr. Gray: It has always been my view that it is unethical for a lawyer to encourage litigation whether for the purpose of encouraging or assisting in his own financial gain or that of a colleague, especially where a group such as your labour group is involved. I certainly would not want to exclude the possibility that one group or another might want to test this in the courts if they do not like the decision of the Board, but you must keep in mind the fact that the Act has what they call a privative clause so that the courts can review decisions only on very broad issues of denial of natural justice, and so on.

I question how fully this can be tested in the courts. Perhaps I was a little too elegant in the language I used. I certainly would not, speaking as a lawyer, want to encourage any group, particularly a union group, to spend its members' hard-earned dues on litigation unless there are pretty good grounds for it. Maybe other lawyers may take issue with me in this area.

The Chairman: Are you finished, Mr. Gray?

Mr. Gray: Yes, thank you very much.

The Chairman: I have Mr. McKinley, Mr. MacEwan and Mr. Barnett. Mr. Leboe, do you want to ask any questions?

Mr. Leboe: I have a couple of questions that are very broad in nature, but very simple to express.

The Chairman: All right, I will put your name on the list. Mr. McKinley, Mr. MacEwan, Mr. Barnett and Mr. Leboe. We have until six o'clock.

Mr. Reid: What about Mr. Clermont?

The Chairman: I am sorry; did you want to ask questions, Mr. Clermont?

Mr. Clermont: Yes, Mr. Chairman, I asked you earlier to put my name at the end of the list.

The Chairman: I will put you after Mr. Barnett. You were here slightly ahead of Mr. Leboe.

All right, Mr. McKinley.

Mr. McKinley: I have no questions.

Mr. MacEwan: Mr. Chairman, first of all, I would like to ask Mr. Gibbons how many times he has appeared before the Labour Relations Board?

Mr. A. R. Gibbons: I could not give you an exact figure, but it has been quite a number of times, possibly eight or ten times.

Mr. MacEwan: And have you been successful each time?

Mr. A. R. Gibbons: No, much to my sorrow.

Mr. MacEwan: How many times have you been successful? Have you any idea?

Mr. A. R. Gibbons: In appearances before the Board you feel you have been successful when you have defended the *status quo*. We have done that twice in Newfoundland. We had three cases on the Michigan Central in which we were successful in two. In the case of T.H. & B., we were successful. We were unsuccessful on the Canadian National, but a couple of months later we were successful in defending the *status quo*.

Mr. MacEwan: How many times have you appeared against Mr. Walter, who was here?

Mr. A. R. Gibbons: Every time.

Mr. MacEwan: You were unsuccessful every time? How many times have you appeared?

Mr. A. R. Gibbons: Approximately eight or ten times. All of our appearances are related to an application by the Brotherhood of Locomotive Engineers seeking to be certified for the unit that we have—

Mr. MacEwan: Right.

Mr. A. R. Gibbons: —or vice versa.

Mr. MacEwan: Yes.

Mr. A. R. Gibbons: We represent engineers in Newfoundland. We defended a raid by the B.L.E. twice in Newfoundland, so that makes two successes. We defended the *status quo*. We were successful in the Toronto-Hamilton-Bualo case, which makes three and twice on the Canada Southern division of the Michigan Central. No, pardon me, it was one and one. We defended ourselves once and they took the application and then we took it back. So we had a spilt in that case. That makes four successes. We were unsuccessful on the CN on our application and then we had their application thrown out. We have been before the Board about six times and we were successful in four of the six.

Mr. MacEwan: Do you feel that the Board, as is presently constituted, is adequate? Although you have lost several times, do you think it is doing a good job?

Mr. A. R. Gibbons: I think it is doing an excellent job, and I think it is above reproach in every respect. The hearings are conducted in an excellent manner. There is no doubt in your mind when you appear before the Board that these people have done their homework. Their questioning is very astute. They have studied the subject and believe me, if you have ever examined railway union applications, you can appreciate that they are very complex. It is very difficult to establish what we call the appropriate unit for which you are seeking certification before the Board. I have had differences of opinion with them, and I suspect had there been an appeal provision I would have been appealing a couple of decisions that I thought were at variance with precedents they had established as to the appropriateness of the unit. But after the heat of the situation cooled off, you had nothing but admiration for them and respect for their decisions; it could not be otherwise.

Mr. MacEwan: You said in most cases you appeared before them to defend the union which is affiliated with the CLC.

Mr. A. R. Gibbons: Three and three.

Mr. MacEwan: Yes, three and three. Have you found on the other occasions when you made application for, say, certification, any delay so far as getting, as we say in the

courts, put on the docket for the Canadian Labour Relations Board is concerned?

Mr. A. R. Gibbons: No. Mind you, the complexity of one particular application we made on Canadian National was such that they had a great deal of difficulty in obtaining the necessary information from management, and I do not say this critically. It is just very difficult to ascertain in what capacity individuals were working on the date of the application and this is germane to an application.

For example, you will appreciate that as a locomotive fireman accumulates seniority he goes to work as a locomotive engineer and begins accumulating seniority there. Across Canada on any given day there is a great number of people firing engines that work as engineers the next day, and on the date of the application they had to ascertain what contract they were working in.

I filed the application on August 5, 1965; the first hearing, I believe, was in February, 1966; we disputed the figures we went back again in June and I believe the vote was taken in October. We satisfied the Board that we had the majority but they exposed us to a vote and we lost on a vote by the membership in October, 1966. But there was no undue delay.

Mr. MacEwan: That is what I meant. I do not think you can answer this but I will ask it anyway. Do you know the record of the voting of those on the Board? Have you any knowledge of that?

Mr. A. R. Gibbons: No.

Mr. MacEwan: You just get the decision?

Mr. A. R. Gibbons: Yes, we just get the decision.

Mr. MacEwan: May I ask Mr. Smith what his record is before the Board?

Mr. W. J. Smith: I could not tell you the number of times we have been before the Board. We have been before it a fairly substantial number of times and our experience has been like that of Mr. Gibbons. We have won and we have lost; some have been to defend and some have been to expand.

Some have been to enlarge and merge because of technological change, organizational changes and operational changes that the railways are introducing in the new method of providing transportation services.

We have found it necessary to merge groups, that is, collective agreements. This is so because the work nature has been merged. Consequently, to protect the interests of the workers to ensure that the senior employee maintains the best employment, we have had to merge groups and that meant going before the Board and asking for an expansion of a certification.

I think the largest one we had covered a single grouping of about 22,000 on the Canadian National Railways and that took some little time because of the very complexity of the investigation. By the time their inspectors investigate all our records to determine who are members and who are not and compare the results with the railway payroll for a specific date, there is quite a bit of work which takes time. Consequently you can expect an application of that size to hang fire for some little while pending completion of the Board's investigation.

But by and large our experiences have been quite good in the sense of reasonably prompt handling.

• 1725

Mr. MacEwan: Just to refresh my memory, could either of you gentlemen tell me what agreements terminate this year with the various railways?

Mr. W. J. Smith: I think all the nonoperating unions.

Mr. MacEwan: All nonops?

Mr. W. J. Smith: Yes.

Mr. Gibbons: And the trainmen.

Mr. W. J. Smith: And the trainmen, yes.

Mr. MacEwan: They are the only ops that terminate this year?

Mr. W. J. Smith: Yes.

Mr. MacEwan: Finally, Mr. Chairman—and I will take only a minute—on page 8 of your brief, Mr. Smith, you referred to a three-member panel and you point out in the last sentence of the first paragraph:

We are not opposed to this principle, but we question whether it can be implemented by means of panels; all that would happen under this procedure, in our view, is that the CLC and CNTU representatives would cancel each other out, leaving the decision to the chairman.

That is what you feel would happen if these three-member panels were set up; is that correct?

Mr. W. J. Smith: It is correct, particularly if we follow through the reasoning of the Minister of Labour. My remarks were a comment on his remarks.

Mr. MacEwan: Yes; that is right.

Mr. W. J. Smith: His position is simply that the group representations, CNTU versus CLC, are prejudiced, biased representatives on the Board and there is no question about that. They rubber stamp every application that comes from the CLC or the CNTU or whatever it is, so it means that the chairman, in order to eliminate that sort of situation, has to establish a panel. That is what he said. I do not necessarily agree that is correct.

Mr. MacEwan: No. The proposed additional section 58B(b) under clause 3 states:

at least two other members

they are talking about panels

to be designated by the Chairman in such a manner as to ensure that the number of members appointed as being representative of employees equals the number of members appointed as being representative of employers.

I am just wondering how this could take place. It states that if a panel is set up there will be an equal number of representative of employees and employers on it, so how could there be a three-man panel with the chairman or the vice-chairman to be appointed, plus two employee representatives?

Mr. W. J. Smith: It is not the panel. The panel is only dealing with the appropriateness of the bargaining unit, is it not?

Mr. MacEwan: Yes, that is right. So they could be set up in that way, then.

Mr. W. J. Smith: The panel is advising the appeal board; this is what you are talking about.

Mr. MacEwan: No, I am not speaking about the appeal board.

Mr. W. J. Smith: Oh, you are speaking about the panels of the Board handling...

Mr. MacEwan: Yes; on the initial application.

Mr. A. R. Gibbons: That is just a division of the Board. To handle these, three is a quorum.

Mr. MacEwan: I beg your pardon?

Mr. A. R. Gibbons: They can sit now with three members; I think three constitutes a quorum.

Mr. MacEwan: Yes, but there has to be one employee and one employer. I thought this reference was to the possibility of there being a chairman and one from the CLC and one from the CNTU without any employer representative on it.

Mr. A. R. Gibbons: No.

Mr. Gray: I think what he is driving at is that even if there were employer representatives, in view of something Mr. MacDougall told us before about weighted voting and so on, this might be the effect. I think perhaps that is what Mr. Smith was driving at.

Mr. MacEwan: That is all. Thank you very much.

The Chairman: Mr. Barnett and then Mr. Clermont.

Mr. Barnett: Mr. Chairman, I was moved by some of the questions asked earlier by Mr. Gray to refresh my memory about what was said by Mr. Pepin of the CNTU when he appeared before the Committee quite some time ago, I believe on February 15, particularly in view of the fact that he appeared before the Committee as, in a way, the only real proponent of this Bill, although to be fair to him one should remind the Committee that at one point he did say that if his ideas and those of his organization had been put forward we should not have the Bill we now have before us, but they were prepared to accept the proposal as it was being put forward by the government.

Incidentally, I note that it appears his suggestion of a chairman's decision rather than an appeal panel is being put forward now by some members of the Committee, at least by the implication of their questioning.

Mr. Gray: Mr. Barnett, I do not think it was his suggestion. I think Mr. Régimbal asked about this as well as others like me who are interested, because this was a system used in Quebec and accepted by both the Quebec Federation of Labour which is, of course, the Quebec wing of the CLC, and the CNTU, and it was already operating then.

• 1730

Mr. Barnett: I do not want to go into this in detail, but as I read his remarks he suggested that their initial representations to the government had been along the lines of setting up roughly, I presume, something equivalent to the Quebec system.

However, may I just refer, Mr. Chairman, to the actual brief submitted by the Confederation of National Trade Unions. In the foreword is this statement:

The workers within the CNTU created their trade unionism, their unions, with their own hands, and they remain master of them. The action we have taken over the past three yeears to secure recognition of natural bargaining units is in line with a long series of actions, thanks to which the workers have succeeded in providing themselves with, and directing, their own instruments of defence.

I ask whether the spokesmen for the unions now before us could make the same statement on behalf of their own organizations?

Mr. W. J. Smith: Yes, I think I could and, if I may be so bold, I think we can say it more accurately.

The workers within the CNTU created their trade unionism, . . . their unions with their own hands.

The membership of the CNTU has been made up largely of workers already organized. They have just picked up 20,000 to 30,000 civil servants in the Civil Service Employees organization to swell their numbers to 200,000. By legislation they actually get them.

It is the same thing with the teachers' organization. Anybody who knows the history of the teachers organization in the Province of Quebec knows of the struggle they had to come into existence, but it was ot the CNTU that struggled to get them into existence.

For over five years our organization has been struggling and spending tens of thousands of dollars to assist the garage workers in the City of Montreal to organize and form their own union. The CNTU has not spent one five-cent piece in trying to help these unorganized workers to organize. But I would not mind betting that after we get them organized, very likely they will come along and try to induce them to leave us and go into their union.

Mr. Barnett: I do not intend to pursue the question of whether one union is better than another. The point of my question was to seek confirmation in the opinion of the people before us that their unions were built by the members and are in their hands just as much as they are in the CNTU.

Mr. W. J. Smith: We went right across the country to do it, too, to get recognition and to establish collective bargaining rights.

Mr. Barnett: Mr. Gray asked a number of questions related to the area of the composition of the Board and its balance, which is a phrase that has been used a number of times in the Committee hearings. On the same page, under the heading *The Essential Facts*, the CNTU-brief reads:

The problem stems from the following facts:

1. The composition of the Canada Labour Relations Board comprises a preponderant representation from the Canadian Labour Congress among the labour members of the Board; this representation is in the ratio of 3 to 1, in other words three members from the CLO and only one from the CNTU. The Board must at times pronounce itself in cases where two centrals are opposed to each other.

In connection with that, Mr. Chairman, in developing my question I refer to section 58 of the Industrial Relations and Disputes Investigation Act. Subsections (1) and (2) set out how the Board is set up and refer to appointments at pleasure by the Governor in Council consisting of a chairman and such other number of members as the Governor in Council may determine not exceeding eight, consisting of an equal number of members representative of employees and employers.

We have had a good deal of discussion about nothing counting except what is written in the law. The question I ask is whether the unions represented here, or any other unions, have any part in the determination of the composition of the Board under law. In other words, if there is an imbalance in the Board—this is for the purposes of discussion—where does the responsibility for any such imbalance lie under the law?

Mr. W. J. Smith: Mr. Picard who has been with the Confederation of Catholic Trade Unions, now the CNTU, has been a member of the Canada Labour Relations Board from

its inception. From its inception back in the forties, there has never been any question about the integrity and the completely unbiased approach of the Board. There has never been any criticism of the of the composition of the Board, its deliberations or its decisions all down through these years, and I never heard any employer at any time voice any more criticism than we did in the heat of the moment, possibly, because of our disappointment at a decision.

It is only within the last three or four years when they have been making efforts to carve portions out of national bargaining units and have failed to convince the Board to do so that suddenly we hear the Board is a prejudiced, unbalanced Board. But all down through those years there has been the same ratio of composition and there has never been the slightest hint of questioning the composition of the Board. It is only now, when the Board has disagreed with the CNTU's request to carve national bargaining units, that we find the Board is, as I have stated, an unholy alliance of some description.

Mr. Barnett: Mr. Chairman, I should say at once that so far as I am concerned as a member of this Committee there has been no evidence placed before us to substantiate any bias; I have not seen a single concrete example of this. But I would like to put this question to Mr. Smith: if, in fact, there are grounds to believe that the Board is operating in an unbalanced or biased manner, or a manner in which in any real sense was prejudicial to the national interest, could that situation, in your opinion, be dealt with under the law as it now stands?

Mr. W. J. Smith: There is no question about that in my opinion. As a matter of fact, I think the government would have a duty to immediately alter the composition of the Board if it were not acting in the discharge of its duties in a manner which is compatible with the national interest.

• 1740

Mr. A. R. Gibbons: I think what you are saying, Mr. Barnett, is that under 58(1) the government could conceivably set up a board that would be comprised of a chairman, one employee representative and one employer representative, period, if they so desire. They have that authority under the law. We will fight like hell if they try it but they have that authority under the law. Do we use it because

it says "not exceeding eight". Is that the answer that you wanted.

Mr. Barnett: In part, yes. I am not trying to lead you into the question of whether you could fight such a change if it were taken at the moment, but I think my question should be considered in relation to the provisions of subsection 2, which says that the board members shall hold office during pleasure. Would you agree that if the government is convinced that the Board is not operating in a fair and just manner that a more appropriate approach to dealing with this situation would be to act within the terms of the present legislation rather than seeking to amend it.

Mr. A. R. Gibbons: That is a pretty difficult question to answer because you would have to pretty well make an assumption. I have to preface my answer by saying that. I do not know on what grounds, on our experience to date, the government could conceivably suggest that the Board has indeed operated in a manner that would require it being exposed to section 2—in other words, no longer do they hold the confidence of the government and therefore could be discontinued as members. It is there, and the government would have that authority but I want to make sure that I get on the record that I do not think to date there is certainly any evidence that would indicate they should use it. They have the authority, yes.

Mr. Barnett: I am not quarreling with your position but I am bringing forward the fact that this in essence is the allegation presented in the brief of the Confederation of National Trade Unions. Following on from the paragraph I read there is a paragraph that reads:

in cases where the two centrals stood opposed, rejected the petitions of certain of our affiliates by declaring in substance that the units in connection with which these petitions were made, for example the Angus Shops in Montreal and the Canadian Broadcasting Corporation in Quebec, did not constitute appropriate units.

He then continues on and ends the paragraph. In other words the bargaining unit has to be national in scope.

All I am asking is for your view, and Mr. Gray was asking for positive opinions in this connection. If the allegation made by the CNTU brief in the opinion of the government is well-founded, would you agree that it

would be more appropriate for them to act under the powers they now have under the Board to correct the situation rather than to bring in a bill of the kind that we have before this Committee for consideration?

Mr. A. R. Gibbons: The answer is that they have the authority to do it and I would not say whether it would be more appropriate or anything else because I am completely satisfied with the Board. But I agree with you to the extent that they have authority to establish as I read it, a chairman, a vice-chairman, one representing the employee's interest and one representing the employers interest, period. You could have a four man board, as I read it. We do know that a quorum is three. So it is there, they have the authority, but that is as far as I would go in my answer. I do not want to have it suggested that I think there is need for a change. That is what I am afraid of.

Mr. Barnett: Well I thought I had made it already clear that I was not suggesting there was a need for a change.

Mr. Gray: Mr. Barnett was going to make some suggestions as to the individuals.

The Chairman: Yes, but to be fair I think it should be put on the record that although Mr. Barnett has carefully read the provisions of the law the practice is that the government accepts the three nominees of the CLC and...

• 1745

Mr. Barnett: To be accurate, Mr. Chairman, I would suggest two nominees of the CLC.

The Chairman: Are you suggesting, Mr. Barnett, that the government should exercise its statutory powers without reference to the tradition of nominees? In other words are you proposing as a solution that the government should ignore the nomination process and just replace the Board with people that they think can represent the best interests of labour and management.

Mr. Barnett: Well since you ask me, Mr. Chairman, I was not making a proposal. I thought I made it clear that I think the system has worked quite well. All I was asking was that if allegations which were made were in fact well-founded whether or not in the opinion of the people appearing before us the government has the right and, I think one of them said, the duty to act to protect the proper operation of the Board and that they do not need amending legislation to do that.

The Chairman: Using the practice or their statutory powers?

Mr. Barnett: I was referring specifically to the statutory powers. We are dealing with a proposed amendment to the law.

The Chairman: Which would mean acting without the nomination process, because once you accept the nomination process of course you are back to the fundamental problem again, that you are with a representative board again and that is the problem. I was very interested to know whether you might suggest, if not positively propose, that maybe the government should go back to its statutory powers and ignore the practice of nominations.

Mr. Barnett: I am not suggesting that; I am...

The Chairman: That is fine, I just wanted to get it on the record. I did not think you were.

Mr. Barnett: If you want a statement from me, Mr. Chairman, and you have asked me for clarification, what I am suggesting is that in my view if there is a problem the kind of a bill we have before us is not the way to deal with it. I would like to come back, if I may, and ask the people who are before us, despite the suggestions which Mr. Gray was making, and I can understand why he is catching at straws—in the hope that somebody will come up with a little bit of a modification to the bill that could make it easier for him in his particular position...

Mr. Gray: It has been going along all right.

Mr. Barnett: I would like to ask the witnesses whether in their opinion they consider that they have been quite positive to the Committee in stating that the law, as far as it relates to the operation and structure of the Canada Labour Relations Board, is quite satisfactory as it now stands.

Mr. A. R. Gibbons: I had hoped that I had created that impression as being our considered opinion. I quoted the experience that we have had, that after a detailed examination of the act in 1957 at the request of the then Minister of Labour we made representations to those requesting amendments to specific sections of the act. Now you do not go through an act like that without examining every section of it. And the employers were also asked. As a matter of fact, we have seen the brief of the railway association at that

time and they did not question a need or suggest a need for any change in the Board.

An hon. Member: Nor the minister.

Mr. A. R. Gibbons: The Canadian Manufacturers' Association made representation at that time and they did not find it necessary to make representation with respect to the Canada Labour Relations Board in section 9.

An hon. Member: What year was that in?

Mr. A. R. Gibbons: In 1957, and Mr. Starr was the Minister of Labour at the time. Then when the task force was created...

An hon. Member: The golden years.

• 1750

Mr. A. R. Gibbons: ...again we went into a detailed examination. We struck off a sub-committee, and I would say the preparation of a brief for presentation took the better part of eight months. And again we were completely satisfied with that section of the act despite the fact that during that time we knew there was heavy pressure on the government to change that section of the act. I do not think we can be any more positive than that, Mr. Barnett.

Mr. Barnett: I have just one more question, Mr. Chairman. I think earlier Mr. Reid reminded the Committee that we have before the subject matter of the Bill, not the Bill itself. In other words, we are not going to be called upon to consider the Bill clause by clause as we might have if it had been referred to us in that way.

If this Committee went back to the House with a reported recommendation that the Bill be not proceeded with, would you regard that as a positive and constructive recommendation on the part of the Committee?

Mr. A. R. Gibbons: We say that in our brief and we repeat it here, that this would be a positive contribution to labour stability in those industries falling under federal jurisdiction, and we say that in the CRLEA brief.

The Chairman: Mr. Clermont, you are next.

[Translation]

Mr. Clermont: This morning, Mr. Smith, in answer to a question asked by Mr. Régimbal, member for Argenteuil-Deux-Montagnes, concerning the structure of your national executive board, you answered that four French-speaking members were on this national board. What is its total number of members?

[English]

Mr. W. J. Smith: All told, thirteen.

[Translation]

Mr. Clermont: In answer to a question asked by Mr. Gray, you answered that your union actually spends millions of dollars in organizing garage employees, and that you would not be surprised if, once they were organized, the CNTU would do some raiding.

[English]

Mr. W. J. Smith: Yes, I said that.

[Translation]

Mr. Clermont: Last week, following a meeting that lasted for two days between representatives of the QFL, of the CNTU and of the teachers federation, was there not a certain agreement to reduce this raiding between unions in Quebec province?

[English]

Mr. W. J. Smith: I do not know. I am not in a position to say. I do not know what they have agreed to and what they have not agreed to.

[Translation]

Mr. Clermont: A certain agreement has been reached last week following a two day meeting of the representatives of these three groups.

[English]

Mr. W. J. Smith: That may be so. I am not aware of it.

[Translation]

Mr. Clermont: Mr. Gibbons, allow me to modify the statement that you made this morning when you said that the politicians did not want any work stoppage or strikes during the duration of Expo 67 in Montreal. Perhaps this comment was corrected this afternoon. In fact, not only the members of Parliament, but the whole population of Canada did not want a work stoppage during Expo 67 in order to promote the success which this organization has really had.

[English]

Mr. A. R. Gibbons: I am in agreement with your statement, with that modification. It is too bad it did not work out that way though.

[Translation]

Mr. Clermont: You are not alone in thinking like this.

Mr. Gibbons, Mr. MacEwan has asked you how many times your group had applied for certification with the CLRB. Did these applications concern the certification of national units, or, in certain cases, of regional units?

• 1755

[English]

Mr. A. R. Gibbons: The certification for our group in Newfoundland is separate from the general certification that we have for employees, let us say, from Halifax to Vancouver Island, the reason for that being that prior to Confederation we represented both engineers and firemen in Newfoundland and when Confederation took place we made application, being the recognized bargaining agent for that unit, and they certified us on the basis of that being the appropriate unit at that time. The other one that I referred to was Toronto, Hamilton and Buffalo Railway Co., which is a small railroad out of Hamilton. That is not a national bargaining unit because it is a small property. The Canada southern division of the Michigan Central Railroad, which is a subsidiary of the New York Central system and operates out of St. Thomas, is similar. In respect of those employees who work on the Canada southern division the Canada Labour Relations Board many years ago said we have jurisdiction over those employees who work in Canada and who live in Canada, even though they may go into the United States. Therefore we are certified for that group. It is regional to this extent, that we are certified for them but they do their collective bargaining, ironically, under national agreements in the United States. The Canadian National Railways' application was national in scope because we are certified across the whole CNR system exclusive of Newfoundland, and we had two cases there.

[Translation]

Mr. Clermont: Mr. Smith, did your applications for certification to the CLRB receive the same fate as those of Mr. Gibbons?

[English]

Mr. W. J. Smith: Basically the same, yes. We have extended our seniority groupings much more extensively than Mr. Gibbons' organization has found it necessary to do because we represent the unskilled and semi-skilled workers. We have somewhere in the neighbourhood of about 8,000 clerical em-

ployees, and all the accounting was done out in the various parts of the country, the various superintendents' offices and so forth. But as a result of data processing, the introduction of IBM machines and eventually computers, all of the time-keeping that was done out in the various superintendent offices and all of the revenue accounting and disbursement accounting has gradually been moving into central locations, and to ensure that the longest service employees did not find themselves fenced in in the little seniority group and the work that they had done had been moved out as a result, we found it necessary to break down all of these seniority fences and make large seniority groups to meet that particular type of condition. That has not been a problem that Mr. Gibbons' organization has been actually confronted with because the operations of a locomotive remain basically the same.

Mr. A. R. Gibbons: May I refer you to one case previous to my being a vice-president of the Brotherhood of Locomotive Firemen and Enginemen's organization? It occurred in 1950, four years after the Canada Labour Relations Board came into being. The Brotherhood of Locomotive Firemen and Enginemen made an application for certification as bargaining agent for a unit of employees held then and certified by the Board to the Brotherhood of Locomotive Engineers and we made the application on Canadian Pacific Railway in its Prairie and Pacific regions. The War-time Labour Relations Board prior to 1948, had certified the Brotherhood of Locomotive Engineers on the entire Canadian Pacific Railway system, running from St. John to Vancouver Island. We were able to show that there were two different and distinct collective agreements and we thought we had a good case. We had the majority of what we considered to be the unit appropriate for collective bargaining in two readily identifiable areas, the Pacific and Prairie regions, and the Board denied our application on the following grounds:

• 1800

Not conducive to stable labour relations or orderly collective bargaining negotiations to sub-divide a well established craft unit of employees of an employer found to be an appropriate unit by the Board into several units consisting of segments of the same craft group of employees. Consequently, in any particu-

lar case where it is sought to do this, convincing grounds for so doing should be established.

The Board denied our application on March 15, 1951. This was an attempt by our organization to fragment a unit and I think it was one of the first cases that was tested.

[Translation]

Mr. Clermont: Mr. Chairman, my last question could be asked to either Mr. Smith or Mr. Gibbons.

Certain witnesses in appearing before this Committee have expressed a keen concern with the fact that the passing of this bill in its actual state could lead to numerous work stoppages or to railway strikes because of certain clauses concerning the fragmentation of national units.

Under the present system, would it not be possible for such work stoppages or strikes to happen if workers in certain occupations so decided? I am thinking for example of locomotive engineers.

[English]

Mr. A. R. Gibbons: The only time that we can legally go on strike is after we have complied with the requirements of the IRDI Act. Seven days after we have had conciliation we have to get a strike vote and go through all of that. So it is feasible. Our organization can go on strike because we negotiate individually, the BLE, the engineers, the trainmen, any organization can do that, but it is on a national basis and the government, regardless of what party is in power if you follow me, because we have had the experience with both—in 1950 it was the Liberals, in 1959 it was the Conservatives, then in 1966 it was the Liberals—cannot let a railway strike go on indefinitely; so you people will always deal with it. It comes back to you. The more you fragment, the more probability there will be that you will have to deal with these situations.

Mr. Leboe: A supplementary question on that point. When you have 17 unions involved, is it not possible that one of those unions can go through all the procedures and go on strike and then we have a sympathy strike with all the rest?

Mr. A. R. Gibbons: It has never been the case yet but it could be; it is conceivable.

Mr. Leboe: The reason I asked this question is that the running trades on the railroad

informed me all along the road as I came through when we had the strike before that they were never asked whether they should go on strike or not.

Mr. A. R. Gibbons: That is right. We do not ask them; it is against the law.

Mr. Leboe: But the railways were out on strike.

Mr. A. R. Gibbons: All right. If the railways are out on strike we do not cross picket lines. But that is according to our constitution and then you get into a legal argument as to what constitutes a peaceful picketing, and you get an injunction against you.

Mr. Leboe: The only thing is that it seems to me that the effect is the same regardless of how you dress it up. The railways did go out on strike, did they not?

Mr. A. R. Gibbons: Regardless of what you do, the government is going to step in and legislate; that is the point. It does not matter how you cut it; if you have a wildcat strike or any other kind of strike, the government is going to legislate.

Mr. Leboe: The point that Mr. Clermont was making is, I think, a legitimate point. In the last railroad strike that we had, for instance, how many unions actually went out on strike by vote?

Mr. A. R. Gibbons: All of the non-operating unions and the Brotherhood of Railroad Trainmen and the Canadian Brotherhood of Railway Transport and General Workers.

Mr. Leboe: How many were actually out on strike besides them who did not cross picket lines and so on?

Mr. A. R. Gibbons: You are locked out.

Mr. W. J. Smith: I might point out that the railway, with such a large number going out on strike, recognized they could not operate, so they just had to close down. And those engineers, Mr. Walter's, and the other group that you came in contact with, were not requested because the railway just said: "We have to close down; we cannot operate." And they were not asked if they wanted to go out on strike.

Mr. Leboe: I am not criticizing anybody here.

Mr. W. J. Smith: No, no, no.

Mr. Leboe: I am just really pointing out that whether we like it or not, if one union, let us say the Brotherhood of Railway Running Trades, went out on strike, the sum total effect of that would be that there would be a lot more who would go on strike, or would not go to work, let us say.

• 1805

Mr. A. R. Gibbons: Well, the company would probably close down.

Mr. Leboe: Yes, but this would be the effect, the practical effect of this. I think this is what you were getting at, was it not, Mr. Clermont? The practical effect of this. I am sorry.

The Chairman: No, you are next on the list. I suggest that if the Committee is agreeable, and since Mr. Leboe is the last witness and these gentlemen may want to go home, maybe we could wind up your questioning now.

Mr. Leboe: It will not take very long because there will be no speeches from me after I have made this little speech. My questions will be very simple. They are really very broad in nature.

I was wondering if you could tell us—it does not matter who answers this one—what really is the effect, as far as the union is concerned, of promoting the sending out of thousands and thousands of cards in connection with a proposition of this nature, and on checking back and writing to certain individuals. For instance, you send out a card and they get a letter back and say: "I did not send you any card." Somebody has taken the names out of the telephone book and has sat down and four or five people have gone around and they have taken them down on a list or something and sent out all these cards. I was just wondering whether or not you really felt that this had any effect. I can tell you that it does not affect the member of Parliament, from my point of view. It is of no value whatever. I was just wondering about that point.

Mr. W. J. Smith: We think it is beneficial for you to know just how—

Mr. Leboe: That would be fine—excuse me for interrupting—if I knew, but I found out that many, many of these cards are simply signed and sent out. I get letters.

Mr. W. J. Smith: How many? How many?

Mr. Leboe: Well, when I say to some of the people of my constituency: "I got your cards" they reply: "I did not send any cards; I do not know what you are talking about."

Mr. A. R. Gibbons: Would you give us their names? We would like to check it out.

Mr. Leboe: I do not think I could do that.

Mr. W. J. Smith: If I might say this, we have precisely insisted that they put their name, their signature and their address on so as to ensure that it was a bona fide one, and that you did have the means of checking up whether or not it was a spurious one taken out of the telephone book. That is the reason we put the address on.

Mr. Leboe: We get form letters, for instance—you must have got some of them—making allegations which even the representatives before this Committee do not go along with about all the privileges and rights and everything of labour being taken away in one fell swoop and so on. I suspect that this sort of wildcat business, this type of thing. It is not associated with the card set-up?

Mr. W. J. Smith: No.

Mr. Leboe: Well, that is fine.

Mr. W. J. Smith: I might say that you gentlemen should read some of the mail that I get that is similar. They accuse me of being very dictatorial and undemocratic and all the rest of it because I do not agree with them in doing some of the wild things that are suggested.

Mr. Leboe: A lot of these questions come from talking with union members.

The Chairman: Mr. Leboe, I think Mr. Clark wants to say something.

Mr. Clark: It is odd too that some of the replies that the members got to these cards were such stereotype letters from some of the groups of the members of Parliament.

Mr. Leboe: I sent a form letter back to each and everyone of them.

Mr. Clark: It looked as if some of the members of Parliament had got their heads together and were producing a stereotype letter.

Mr. Leboe: Well, mine originated in my office and I sent out the same one to all. I

think in answer to the card one could not do otherwise.

Mr. A. R. Gibbons: We also had individual members who ignored our card program and wrote to members of Parliament with carbon copies of their letter to us, endorsing Bill C-186.

Mr. Leboe: I do not doubt that.

Mr. Gibbons: From British Columbia.

• 1810

Mr. Leboe: I just wanted to let you know that as far as I am concerned as a member of Parliament, I think it is really a useless exercise when you are going to have a bill or anything come before a Committee. Anyway, it is really no skin off our backs now.

Another question I would like to ask is this. Apparently you believe that, for instance, all employees on a train, which include firemen, enginemen, dining car stewards, waiters and porters, and so on, necessarily must be all in one basket; because if the enginemen tie up the train, the whole train is tied up; and that it is better for the country if they are all under one roof if they can get under one roof. Is that right?

Mr. A. R. Gibbons: They all belong to crafts right now. So, much as individuals may desire this, it is not a fact. We still have 17 railway unions in the industry.

Mr. Leboe: But you are trying to cooperate so that you get into this position where you do not find fragmentation as far as getting a train tied up.

Mr. A. R. Gibbons: That is right.

Mr. Leboe: Or the business tied up.

Mr. A. R. Gibbons: For the very selfish reason that if the train is tied up we do not work. In effect, if somebody else is on strike we suffer too.

Mr. W. J. Smith: It is the way you do responsible collective bargaining.

Mr. Leboe: I agree that something has to be done.

Mr. W. J. Smith: If I had somebody representing the other class of employees and half of the railway workers that I represent were represented by another union and we came

up to collective bargaining time, we would have to be doing some Pinkerton work to try and find out what they were going to ask for to make sure that we did not ask for any less, and then we would be damn careful when we were negotiating with the boss that we did not make any commitments until we found out what it would be. They would be doing the same thing too. The net result is that the degree of responsible collective bargaining would be very minimal because of these competing forces.

Mr. Leboe: You were saying that the Board worked very well. And since you have three from labour and three from management, can you tell me just to what extent there is a correspondence or meetings between the labour representatives and labour and management representatives and management—I am ignorant on this, so that is why I am asking these questions—or are the presentations made always in front of the Board with as complete as the membership is at the time?

Mr. A. R. Gibbons: A quorum of the Board sits much like your Chairman and the committee up here. The applicant union usually sits to the left, if I recall, the intervener, which is the organization that usually holds the contract and has intervened against the application, sits on the other side, and management sits in the middle.

Management's position is very often, in this case...

Mr. Leboe: They would like to hear that, would they not?

Mr. A. R. Gibbons: Yes; they sit in the middle, neither left nor right, but the main purpose of management in these meetings is to offer no brief and to support neither the applicant nor the intervener. They are just there to supply factual evidence as required by the Board. You can appreciate that they do not indicate in any way at all favouritism for one or the other.

Mr. Leboe: Thank you very much, gentlemen. Those are the few little simple questions I had, I think.

The Chairman: Well, that winds it up, and I thank you gentlemen very much. I would point out to the members of the Committee that we sit again tonight at 8:00 to hear the Brotherhood of Railroad Trainmen.

The meeting is adjourned.

EVENING SITTING

• 2022

The Chairman: Gentlemen, I think we can begin. We have with us tonight representatives of the Brotherhood of Railroad Trainmen. On my immediate right is the general counsel for the Brotherhood, Mr. M. W. Wright, Q.C., who will be summarizing the brief; then Mr. McDevitt, the Vice-President of the Brotherhood who was with us this afternoon, and then of course, Mr. Paul LaRochelle, the General Chairman.

I will call upon Mr. Wright to present the brief.

Mr. M. W. Wright, Q.C. (General Counsel, Brotherhood of Railroad Trainmen): Mr. Chairman, and members of the Committee, the views of the Brotherhood of Railroad Trainmen are contained in a brief. I think it might be more expeditious if, in the first instance, I were to read the brief to you.

The Brotherhood of Railroad Trainmen represents approximately 18,000 railway employees in Canada. The employees whom we represent are actually involved in the operation of trains and include conductors, brakemen and yardmen who are employed both in road and yard service. Ever since collective bargaining became a reality on the Canadian railways, such bargaining has been conducted on a nation-wide basis. Thus, the railway employee in Lunenburg, Nova Scotia, and his counterparts in Trois Rivières, Quebec, and in Watrous, Saskatchewan, earn the same amount in wages as employees doing the same class of work in Montreal or Vancouver. We believe that such a principle is rooted in common fairness.

The fracturing of national bargaining units in the manner contemplated in Bill C-186 will only encourage the exacerbation of local grievances, for each geographical grouping in Canada will seek to out-do all other groupings. As a purely pragmatic proposition, the breaking up of national bargaining units will expose railway management to the effects of the bargaining "whiplash". You may wonder why we should raise this issue since this would appear to be a matter to be raised by management; indeed, it has been. The answer is that whenever management-labour conditions are in an unsettled state, labour is always blamed. Aside from the CNTU and the Teamsters—when I refer to the Teamsters I am referring to only one segment of the Teamsters—almost everyone having experience in

industrial relations matters concedes that this mischievous piece of legislation will have an unsettling effect. There can be no doubt on the subject for where it has always been recognized that the proliferation of bargaining units is to be avoided, Bill C-186 would reverse this policy. Governments and politicians are not normally prepared to admit that their legislation has contributed to a deterioration of sound management-labour relations; it is much easier to blame labour. The Brotherhood of Railroad Trainmen, therefore, respectfully serves notice on this Committee that if you report this Bill favourably to the House of Commons then you are playing your part in breaking down sensible and constructive labour relations practices on Canada's railways.

We shall not go into the motivation for this legislation. The consternation which Members of Parliament express privately, while stating that they will deny it if quoted, makes one speculate as to how powerful are the forces behind this legislation.

What is more to the point is the rather cynical nature of this legislation. The Bill purports to give new powers to the Canada Labour Relations Board. In point of fact, Parliament does not have to pass this Bill in order to give the Canada Labour Relations Board the power to certify a trade union for a unit of employees less than a national bargaining unit. The Board has always had this power under the Industrial Relations and Disputes Investigation Act; it presently has this power and it has exercised the power in this way in the past. Bill C-186 is intended as a pointed reminder to the Board to exercise its power in favour of diminution of the national bargaining unit, and all for the benefit of the CNTU. In case the Board should fail to get the message, however, Bill C-186 provides that the government "...may appoint two other persons representative of the general public who shall be members of the Board for the hearing and determination of appeals ...together with the Chairman...". This appeal is confined only to cases involving applications for certification of a portion of a national unit. It will be noted that this appeal procedure will apply only in this one type of case. The two wise men who will be appointed by the government will apparently act as overseers over the Canada Labour Relations Board, presumably to ensure that the wishes of the government will be enforced. It may be suggested that we are being unfair to these two men who would be appointed. Possibly

this is so, but surely we are being no more unfair than the Government is being to the present members of the Canada Labour Relations Board. The present members of the Board, both management and labour representatives alike, cannot possibly read Bill C-186 except as a vote of non-confidence in them.

• 2025

The power to determine what is or is not an appropriate bargaining unit, or indeed whether to certify or not, is a discretionary power.

Mr. Chairman, I know there are several lawyers on the Committee. I have been following these proceedings and I especially ask for the careful attention by the lawyer members, if I may put it that way, to this part of the brief because I think it is important. I think it is extremely important, but by that I do not mean to say that I am not inviting the non-lawyer members to also look into this carefully. I will repeat a little.

The power to determine what is or is not an appropriate bargaining unit, or indeed whether to certify or not, is a discretionary power. It indicates that Parliament intended to vest in the Canada Labour Relations Board a broad discretionary power and in order to protect or support that discretionary power, Section 61 (2) provides that "...a decision or order of the Board is final and conclusive and not open to question or review...". Where an administrative tribunal is given a discretionary power, it is unthinkable that the discretion should be the subject of an appeal. The general law of the land is that if an administrative tribunal, in the exercise of its power, should carry on in a manner which is contrary to natural justice, then notwithstanding the privative clause, Section 61 (2), it may nevertheless be reviewed and, if found improper, upset by the courts. If, therefore, the appeal tribunal provided for under Bill C-186 is intended to review the juridical aspect of the Boards' decision, then the appeal tribunal would be usurping the function of the courts. It is apparent, however, that the appeal tribunal is intended to review *de novo* the very same matter which was before the Canada Labour Relations Board and to this extent either the Canada Labour Relations Board or the appeal tribunal is superfluous. Certainly both are not needed. It is simply absurd to vest a discretionary power in one administrative tribunal and to make it subject to review and to reversal by

another administrative tribunal. Bill C-186 provides that the appeal tribunal may substitute its discretion for that of the Canada Labour Relations Board. As an indication of the absurdity of the proposition, you must realize that there is virtually no precedent for such legislation. Such is the strength of the political power-play in this case.

The Canada Labour Relations Board has been criticized for its decisions in the Angus Shops and CBC cases. The applicant in both cases was the CNTU. In both cases, the CNTU applied for certification for a small portion of the employer's over-all operations. The CNTU has levelled the charge against the Canada Labour Relations Board that their applications were dismissed because the Board is addicted to maintenance of national bargaining units and that the Board is inflexible in its position on this matter. It is safe to say that most people who have criticized the Canada Labour Relations Board have never read that Board's decisions in these two important cases.

• 2030

May I interject, Mr. Chairman, to say respectfully, that after reading the proceedings of this Committee and the observations made by some members of this Committee, it is very obvious that they have never read the decisions of the Canada Labour Relations Board, because what they were saying represented a complete fabrication of what the Board is alleged to have said and done. It is surely essential that your Committee should examine into what the Board has done so that your decision may be based on facts and not only on rhetoric.

In the Angus Shops case, the CNTU applied to be certified as the bargaining agent for an industrial unit of 3,300 employees of Canadian Pacific Railway Company employed at the Angus Shops at Montreal. The only issue before the Board was whether or not this unit would be "appropriate" for purposes of collective bargaining within the meaning of Section 9 of the Industrial Relations and Disputes Investigation Act. The Board examined carefully into the scope of CPR's operations and observed that CPR has three major shops in which their heavy repair work is handled, namely, at Winnipeg where 1,200 employees are involved, at Calgary where 900 persons are employed and at the Angus Shops at Montreal. Canadian Pacific also has 68 running repair shops in which 5,900 employees in the same or similar craft classifications as at

Angus are employed. The Board had before it evidence showing the integral nature of the work flow between the various shops. The Canada Labour Relations Board also had before it uncontradicted evidence as to the development and application of the seniority rights. The Board made the following observation:

"By virtue of the seniority provisions established under the collective agreements between the Intervener, Division No. 4, Railway Employees' department...

—that was the existing bargaining agent—

... (the present certified bargaining agent), and the Respondent, shop craft employees have regional trades seniority which may be exercised by the individual employee for example between Angus Shops and all other railway repair and maintenance shops in the Atlantic Region of the railway system. Where such seniority rights are exercised by the employee to fill a vacancy or displace a more junior employee in another shop the employee carries his seniority with him to the new posting. However a tradesman employed in a back shop, as for example the Angus Shops, while accorded also the additional right to fill a job vacancy in another back shop in another region does not carry his seniority with him to the other back shop in so doing.

"The effect of certification of the Applicant...

• 2035

—remember, the applicant was the CNTU.—

"The effect of certification of the Applicant as bargaining agent for the proposed separate unit of Angus Shops craft employees would be that these seniority provisions would no longer apply so as to permit transfers of employees thereunder between the Angus Shops and other repair and maintenance shops in the system. This would affect the established interests and seniority rights not only of employees in the Angus Shops but also of the employees in the other shops in the Atlantic Region in particular as well as transfers between back shops."

In other words, the Board felt that it could not be completely unconcerned about the adverse effect which certification of the CNTU would have upon other railway

employees across Canada. The Board cannot exist for the convenience of a group of employees in only one part of the country; it must consider the overall impact which its decisions may have upon other employees in Canada. Can this approach be said to be wrong? Surely any other approach would be grossly irresponsible. The Board also said:

"Wage rate standards are the same for tradesmen in all railway repair and maintenance shops across the system. All shop tradesmen in the same classifications are paid the same wage rates and enjoy the same fringe benefits, and work under common conditions of employment under the provisions of the collective agreements in effect."

We hear so much talk these days about unity in Canada. Surely it is relevant for a Committee of elected representatives to consider the impact which the Board's decision has in terms of national unity. National unity is not to be bought at the price of adversity in all parts of Canada for the benefit of one section. In that direction surely lies the road to disunity. The following are some of the considerations which influenced the Board's decision:

"The Interveners submit that the proposed unit is inappropriate for collective bargaining, that the certification of the unit as requested would be against the best interests of the shop employees including the loss of seniority rights and would be a seriously retrogressive step in collective bargaining in the railroad industry in Canada. The Interveners submit that from the point of view of the interests of the general public, the fragmentation of the established system-wide unit of shop craft employees resultant from the recognition of the proposed Angus Shops unit as a separate bargaining unit and the designation of the Applicant...

that was the CNTU

... as the bargaining agent therefor would have the effect of establishing two competing bargaining agents each of whom would be representing a separate group of employees in the same classifications and doing the same type of work under similar conditions with whom the Respondent (the Company) would be compelled to bargain. The end result would be to create a competitive bargain-

ing situation as between the two bargaining agents which would be destructive of orderly and realistic collective bargaining in respect of employees in the maintenance and repair department of the railway. This would tend to create and would result in work stoppages affecting the operation of the entire railway system. The Respondent advances serious arguments to the same effect. The Board of is of opinion that this analysis of the probable effect of certification as applied for is realistic."

Can you honestly find with what is obviously an intelligent and sophisticated analysis of the industrial situation? The Board went on to deal with its concept of some of the principles which ought to be applied when deciding on the question of fragmenting a long-established bargaining unit. The Board's philosophy is illustrated in the following quotation from the Angus Shops decision:

"In the case of Brotherhood of Locomotive Firemen and Enginemen and Canadian Pacific Railway Company... in which the Brotherhood of Locomotive Firemen and Enginemen applied to be certified as bargaining agent for a regional unit of locomotive engineers who were part of a system-wide unit of locomotive engineers employed by the company for whom the Brotherhood of Locomotive Engineers was the then certified bargaining agent, the Board said 'The Board is of opinion that ordinarily it is not conducive to stable labour relations or orderly collective bargaining negotiations to subdivide a well established craft unit of employees found to be an appropriate unit by the Board, into several units consisting of segments of the same craft group of employees. Consequently in any particular case where it is sought to do this, convincing group for so doing should be established'.

"An instance inter alia where the Board has considered that convincing grounds for so doing were established will be found in the decision of the Board in the case of the International Longshoremen's and Warehousemen's Union to be certified for a unit of employees consisting of a group of longshoremen employed by the Canadian Pacific Railway Company at the Company's docks at Vancouver, B.C., who had for many years been part

of a unit of employees of the Company covered by a collective agreement between the Brotherhood of Railway and Steamship Clerks and the Company. These employees now desired to be represented by the applicant union in a separate bargaining unit. It was established by the evidence that the nature of the longshoring operations on the C.P.R. docks had changed materially since the period when the existing bargaining relationship had been established. The operation had become a commercial wharfinger operation indistinguishable from other such operations on the Vancouver docks where the employees in similar classifications were represented by the International Longshoremen's and Warehousemen's Union as bargaining agent. The operation had been initially a part of the Company's combined railway and shipping operation. It was also established clearly by the evidence that the interests of employees would be better served by the assurance of more regular work and wider seniority rights which would ensue to the employees in the proposed unit by giving effect to the application. The Board acted upon these grounds in granting the application.

● 2040

"In a decision of the Board made in 1964 on an application made by the Canadian Air Line Dispatchers Association to be certified for a unit of airline dispatchers employed by Nordair Ltd., who had been included in a comprehensive system-wide industrial unit of employees of the Company several years previously for whom an opposing union, a syndicate affiliated with the Confederation of National Trade Unions, had been certified, it was established by the evidence that the certified bargaining agent had not bargained in more recent years for the airline dispatchers "in the unit and these employees were not covered by the then existing collective agreement between the certified bargaining agent and the Company. The Board granted the application for the certification of the unit of airline dispatchers upon the basis of this evidence."

I did not hear the CNTU complaining about justice not appearing to be done then. They applied for the breaking up of a unit, and they succeeded because it was done for proper grounds within the context of in-

dustrial relations. The Board upheld their submission.

The Board then found the following as applicable to the facts in the Angus Shops case:

"The Applicant (the CNTU) has made the following assertions in the written statements put forward with its application for certification and in its reply to the interventions filed by the Interveners to its application, namely, that the present setup of employees working for the same employer in the same shop divided into different bargaining units is not capable of settling the employees' problems, that the great majority of Angus Shops employees are French Canadian and should be represented by full-time representatives who speak their mother tongue and that the realities of this situation were not understood by the leaders of the Intervener unions, and finally that a cultural unit can justify, apart from all other considerations, the formation of a separate unit.

● 2045

"No evidence was put forward by the Applicant supporting these assertions."

"The evidence of the Intervener craft unions as to their close association as joint bargaining agents for the shop craft employees including those in the Angus Shops has been cited previously herein. The Interveners have put forward evidence also as to the procedures for the handling of grievances of employees in the Angus Shops through the local lodge representatives of each of the associated craft unions in the shops for settlement at that level and the procedures followed in the processing of grievances unsettled at the shop level to higher levels of union and management representatives which are applicable without distinction to grievances of shop employees in railway shops across the system. The Interveners have given detailed evidence establishing that a substantial majority of the officers of the local lodges encompassing the Angus Shops employees, and of the Brotherhood of Railway and Steamship Clerks with respect to local lodges encompassing the stores employees involved in this application, as well as the local lodge committeemen of these unions in the shops and stores, are French Canadian and that a considerable number of the representatives who are not French Canadian are bilingual. Evi-

dence was also given of the considerable number of officers at regional chairmen and higher levels of these unions who are French Canadian. The shop committees of these lodges are comprised of employees working alongside their fellow craftsmen in the shops."

Mr. Chairman, and members of the Committee, I will not say that I claim any great expertise on the subject, but I do claim to have some knowledge of this particular subject.

I acted as counsel in the Angus Shops case. In the formal submission made by the CNTU to the Canada Labour Relations Board before we got to the hearing they alleged that these American unions—the American unions; it was always Americans—had no sense of affinity with the French Canadian employees at Angus Shops. They were talking actually about Canadian citizens in Canada, members of these international unions. I say to you frankly that I found it regrettable—in fact, that I found it rather distasteful—to have to go into the racial origins of the members of the committee to find out which had an Anglo-Saxon background and which had a French Canadian background. To me it was deplorable. To think that in this day and age, following what happened in the 1930's and in the 1940's, we were looking back into the racial origins of people was to me rather incredible. Nevertheless, faced with this demand, I had no alternative.

When we got to the hearing the CNTU did not say a word about it. They were absolutely "mum" on the subject. I, on the other hand, had an exhibit that I am not at all proud of. I was driven to the point where I had to prepare an exhibit showing the racial origins of the people who were there. And what did it show? In these American unions at the Angus Shops in Montreal, it showed a heavy preponderance—and I not talking about 50 or 60 per cent—it showed 75, 85, 95 and 100 per cent of French Canadian content on the committees at the local level, at the regional level and very often at the international level.

When I read the submission of the CNTU to your Committee the very same arguments were there about the American unions. This is what I call the hit-and-run type of logic—the scatter-gun approach. Just throw the dirt into the electric fan and let it go wherever it hits and maybe something will stick. I do not respect that type of logic.

After applying the foregoing yardsticks to the facts in the Angus Shops case, the Board unanimously concluded that it was:

"...of the opinion that a unit of craft employees confined to the Angus Shops alone is in the circumstances too limited in scope to be appropriate for collective bargaining. The simple fact that a majority of employees, in a bargaining unit shaped by an applicant trade union with a view to securing certification as bargaining agent thereof, desire to be thus separately represented in collective bargaining, does not ipso facto establish that the unit is the appropriate unit for collective bargaining without regard for other considerations. The Board is of the opinion that no convincing reasons have been advanced to warrant the disturbance of the existing system-wide bargaining unit by the fragmentation thereof as proposed by the Applicant."

Can your Committee honestly disagree with the Board's careful reasons?

• 2050

I point out that the Board did not just run off at the mouth when they handed down their decision. They went into it carefully. They gave their reasons. They were acting in good faith, and they gave good reasons within the context of labour relations; not within any political context, if I may put it bluntly, but within the context of thorough management-labour relations. And I ask you this question: Can your Committee honestly disagree with the Board's careful reasons? If so, on what grounds do you disagree?

We submit that the foregoing quotations from the Angus Shops decision do not indicate an improper approach by the Board; on the contrary, any other approach by the Board would have resulted in chaos insofar as the employees of the Canadian Pacific are concerned and would certainly have resulted in similar difficulties for the Company. It is also obvious from the foregoing quotations that the Canada Labour Relations Board considered seriously and carefully whether or not to certify the CNTU on the basis of a so-called "self-contained establishment" or on the basis of a "local, regional or other distinct geographical area within Canada" as these words are used in Bill C-186. These are the very issues which pre-occupied the Board's attention.

It is obvious that the Canada Labour Relations Board does not have to be told by Parliament that it may certify a unit consisting

of less than a national unit. The Board is more aware of this than the Members of the House of Commons; indeed, the Board has done so in the past. It is impossible to argue successfully against the logic of the Board's decision. After all, it is the responsibility of the Board to protect the interests of the public and the employer as well as the interests of the employees. Surely the Board could not be oblivious to the effect which a regional certification at Angus Shops would have had upon the other employees in Canada and upon the Company. Any other approach by the Board on this issue would lead to incalculable difficulties in matters affecting Management-Labour relations. The thrust of the CNTU's argument is that the right of association is denied to a group of employees in a particular area who wish to be represented by a particular trade union. This is a clever argument for the CNTU to dwell upon because it is advanced in the hope that it will strike a responsive chord in a society which is attuned to the democratic process and generally to the idea of the principle of the right of self-determination. The fact is, however, that the right of association has always been regulated ever since the introduction of labour legislation in Canada and it cannot be otherwise.

• 2050

In every instance where there are trade unions competing before a Labour Relations Board for certification, there will be a loser and to that extent the employees who supported the unsuccessful trade union are denied their freedom of choice. The first obligation which a Labour Relations Board must discharge is to determine which unit would be appropriate for purposes of collective bargaining and the appropriateness must be one which will take into account the point of view of Management, the point of view of Labour and the point of view of the public. Certainly the wish to the majority of employees is an important factor for consideration by a Labour Relations Board; but it is not the sole criterion. The collective wish of the employees is one of the factors which must be weighed on the scales along with all other relevant considerations and no two cases are alike. It is the only sensible way in which the Board can deal with these issues. Decisions which are made to advance ad hoc political interests can only have the effect of disrupting permanently any intelligent balance in the collective bargaining regime. Herein lies the mischief in Bill C-186.

The CNTU developed a furore over the Board's decision in the CBC case. In this case, the CNTU applied for certification for a unit of employees of CBC consisting of all employees in the Quebec Division of CBC. The Board had to determine whether or no such a unit would be "appropriate". The Board first noted, and I am quoting, that

"Technicians and craftsmen in the classifications of employees in the proposed bargaining unit worked interchangeably between French and English language stations within the Division.

• 2055

In effect, what the Board said was that you have the same people working during one part of the day on an English program and the next part of the day on a French program—in other words, that the same people were working on the two networks, English and French.

This is also the case in respect of the same classification of employee at production centres in other Divisions across Canada where there are both English and French language stations".

Once again, the Board had to consider not only the interests of a sectional group of employees but what effect regional certification would have upon all of the other employees who were employed in similar classifications by CBC across Canada. The Board also pointed out as follows, and I quote:

"Wage rates and working conditions in these system-wide units including the unit represented by Intervener No. One (the existing bargaining agent) have been established on a system-wide basis without distinction as to locality apart from a few isolated classifications and with the exception of a limited number of prevailing rate employees who are paid local prevailing rates"

Thus, the Board had to consider what the impact of regional certification would have been upon the existing wage structure in CBC's overall collective bargaining picture. After applying the Board's yardsticks which are rooted in practical and pragmatic considerations in the collective bargaining regime, the Board concluded that the proposed unit was not appropriate for collective bargaining.

One cannot deny that Parliament has a right to legislate on the subject matter in question. One must consider, however,

whether Parliament should interfere in this manner in the technical consideration involved. Members of Parliament have been known to be affected by considerations which are strictly political and this attitude can contaminate the atmosphere in Management-Labour relations and this is nowhere better demonstrated than in the official position taken by CBC in this matter. Mr. Chairman, and gentlemen, please forgive me for falling back on my own experience, but I acted as counsel on the CBC case as well. These are the two controversial cases before you. This is not a subjective approach, I am giving you the facts. The CNTU has been before the Canada Labour Relations Board on this same issue several times. On the first occasion when the matter came before the Board, the spokesman for CBC, being concerned only with the practical implications and the overall labour relations policy of the CBC, stated CBC's outright opposition to fragmentation of the bargaining unit. There was just no doubt as to their position. The Transcript of the Proceedings of the first hearing reflects all of the practical considerations which caused CBC to oppose certification on a narrow geographical basis. As the political pressures developed, however, in the House of Commons, the message was not lost on CBC. The official position of CBC became more and more guarded and circumspect before the Canada Labour Relations Board in direct proportion to the mounting political pressures which were generated by the CNTU as they were reflected by certain spokesmen in the House of Commons. We submit respectfully that the CBC, instead of being able to pursue a labour relations policy based upon sound Management-Labour principles has been intimidated, for fear of political repercussions, into coming before the Board and making guarded and almost innocuous representations to the Board.

Nowhere, either in the Angus Shops decision or in the CBC decision, did the Canada Labour Relations Board question that it had the power to certify the CNTU as requested. The only question was whether or not the Board ought to certify the splintered unit. Bill C-186 does nothing, therefore, in terms of altering the substantive law; it merely provides for a method of riding rough-shod over the Board in order to satisfy certain political aspirations.

• 2100

What effect would fragmentation of the National Bargaining Unit have upon the

employees represented by the Brotherhood of Railroad Trainmen? Beyond any doubt, it would lead to industrial chaos. Any local grievance, real or imagined, would become the spring-board for an application for local certification.

We had a situation a few years ago in London, Ontario in respect of the Canadian Pacific. A group of employees called the Brotherhood of Railway Running Trades applied to the Canada Labour Relations Board for certification. The Board held that it was not a bona fide trade union; they held it was really a glorified insurance company—they were selling insurance. But that was not enough to stop them. So they simply stirred up the local situation—there are always some grievances lying dormant somewhere, you just have to exacerbate them a little bit—and before you knew it there was a kingsize storm brewing in London. People were starting to book sick all over the BRRT. But a lesson was to be learned from that. Suppose that was a certified bargaining agent, certified on a local basis as was permitted under the new legislation, Canadian Pacific would have stopped dead in its tracks. You cannot run a railway operation if you have a blockage in part of the country, and London, Ontario is almost in the middle of the country. There is an object lesson in this to be learned.

Now what are the regions, what are these local breakdowns we are talking about?

The Canadian National is comprised of five Regions which consist of 17 Areas while Canadian Pacific has four Regions broken down into 24 Areas. If Angus Shops at CPR or the Quebec Division or the French Network of CBC were to be considered as "appropriate bargaining units" then, at the very least, each of these Areas would qualify for separate recognition. For all of the reasons indicated by the Board in many of its decisions, and particularly for the reasons indicated in the Angus Shops case, the shambles which would result on the Canadian railways is something which no one interested either in the development of the railways or in the welfare of railway employees could possibly condone.

Seniority arrangements established by mutual agreement over many years would be destroyed. Labour organizations in different sections of the country representing the same classifications of employees would vie for supremacy in terms of making escalating demands against the railways.

It is a picture which anyone having any knowledge of Management-Labour relations cannot view with any sense of equanimity.

The choice, gentlemen, is for Parliament.

The Chairman: Thank you, Mr. Wright. Are there any questions?

Mr. Barnett: Mr. Chairman, I would like to refer to page 10 of the brief starting at the middle of the first paragraph which deals with what is termed "The thrust of the CNTU's argument". Then it goes on to refer to this "right of association", raises the question of the appeal this has to those of us who have a strong attachment to the idea of "self-determination" and so on, and relates that to the whole question of the establishment under law of the Labour Relations Board type of approach to the establishment of certified bargaining units.

I have a question for Mr. Wright, and perhaps at the same time I could ask him to expand on his views in respect of the sequence of events which began, as I recall it, when certain conditions prevailed during the last war and P.C. 1003 was enacted which I believe established under the Emergency Measures Act the initial federal legislation in this field, although without proper discussion in Parliament.

• 2105

Would the logical line of reasoning which would flow from this argument be, in effect, that we abandon completely the Labour Relations Board approach under law and revert to the situation that prevailed prior to the enactment of P.C. 1003, where any group or kind of employees, who could get together and one way or another obtain agreement from an employer for bargaining, had the right to do it, had the right to disband their unit and had the right to regroup at will? Perhaps you could give us some of the background which now leads union organizations such as the Brotherhood to come before a committee of Parliament and in effect argue that experience has shown that this has been a valuable institution in the fabric of our society—and accept this principle, whereas it seems, at least to someone of my age, that not too long ago any one connected with the working force and with labour unions was very doubtful, to say the least, of this being of any asset to working people.

I wonder whether you would agree that a logical follow-through of this line of reason-

ing would create that feeling again. Perhaps you could also explain why this change in attitude and outlook in the trade union world has taken place since P.C. 1003 was enacted.

Mr. Wright: Well P.C. 1003, as you already said, was introduced under the stress of war and by virtue of the provisions of the War Measures Act. Originally, when P.C. 1003 was introduced, you had a very unusual situation. You had regional labour relations boards established in each province and a national board, the Canada Labour Relations Board—the Wartime Labour Relations Board as it was called at the time—at Ottawa. The Board here had a power of review over all matters which would normally come under provincial jurisdiction, and the Board had original jurisdiction over matters which ordinarily would come under dominion jurisdiction, such as railways, air lines, shipping and the ordinary type of thing which under the BNA Act come under federal jurisdiction.

I think, sir, that it would be rather unrewarding to look to that part of the past for too much guidance because, as I recall, it was in 1947 or 1948, about two or three years after the war was over, that jurisdiction in labour relations matters was returned to the provinces, except with respect to industries which come under federal jurisdiction.

In so far as the industries that come under federal jurisdiction are concerned, you simply did not hear any arguments about the Board being prejudiced, biased, opposed or anything of that type. The organizations which appeared before it won cases, they lost cases, they took their licks, and a certain jurisprudence was established. I am not one of those who will come here and tell you that the Canada Labour Relations Board can do no wrong. That is ridiculous; they are human beings and they make mistakes just as everyone else does. I have taken my trimmings there and I have not always agreed with them. But running through the fabric of their decisions is a philosophy, and at the risk of oversimplifying the philosophy, it is this: that a bargaining agent, before it is certified, has to establish what is the appropriate bargaining unit; in other words, it has to establish what would be the appropriate voting constituency. If an employer has 3,000 employees, nobody is saying that all 3,000 have to be in the same bargaining unit. They look to see whether or not they have some affinity in the context of management-labour relations matters. Over the years different practices devel-

op and on the basis of those practices agreements are entered into, economic considerations are developed, and a whole sociological fabric follows. And merely, suddenly, to try to run a bulldozer through this type of thing at the instance—of one organization—and let us be honest about it, one organization and one organization alone—is a little much. It is unfair to say the least, and I think it is destructive.

• 2110

With the greatest respect to you gentlemen, I am a lawyer—I am fair game—I am being paid to be here tonight, so I have an ax to grind. We all have axes to grind, all of us—not only myself but my listeners.

You will not be doing anything constructive in an economic sense through the type of legislation you are asked to approve. First of all, it does not do anything. The Board knows better than you that it can split a bargaining unit, for the simple reason that it has done so dozens of times. You have statistics before you which show they do not have to be told this. As I said in the brief, if you establish a board on top of the Board, one of them is going to be superfluous. You are trying to save money, if I am to believe what I read in the paper. I do not know why you need two. Do without one of them, but let us not go through this charade of thinking that we are accomplishing something by establishing an appeal tribunal. Show me one other illustration of that type; you will not find it. There is only one similar example, the Board of Transport Commissioners, as it used to be called until a few months ago. An appeal from a decision of the Board of Transport Commissioners on a question of law lies to the Supreme Court of Canada; An appeal on a question of fact lies to the Cabinet. In other words, it is a political decision. If you are to think of that as an appeal, this is the only instance that I have been able to discover where there is a so-called appeal from an administrative tribunal. I do not know if I have answered your question directly, sir, but I think this is what you were asking for. If I have missed the point I will be glad to elaborate.

Mr. Barnett: Perhaps I should say by way of explanation that at the time of the transition to a peacetime economy, that you referred to, I was employed in an industry that would normally come under provincial jurisdiction. My recollection is that at that

time and within the union to which I belonged as well as other unions in British Columbia, there was a good deal of scepticism about there being any value to working people in having this form of regulation imposed by law. It was felt this would work to the disadvantage of the trade union movement and would not be in the interest of the working people. Because of the approval of the existing system of operation of the Board that has been expressed not only by the union you represent but by quite a number of other unions before this Committee today, I wonder what position was taken by the TLT and CCL at the time of the initial establishment of the Canada Labour Relations Board. Was it welcomed wholeheartedly or was there some degree of scepticism about its operation? Have you any recollection of that? Is there any contrast between the attitude which was taken by unions such as yours at the time the Board was being established and the position being taken today? If so, is the change of attitude a result of experience with the Board's operations over a period of time?

• 2115

Mr. Wright: I really think human nature being what it is, we are all a little sceptical about anything new. You must remember, apart from one previous experience in Ontario just before the war broke out—about 1937 or 1938—the introduction of Bill P.C. 1003 was Canada's first experience with anything similar to the Wagner Act of the United States. I think labour applauded this. I was in the army at the time but I recall that labour applauded this move, and I think properly so.

Mr. Barnett: I will not pursue that any further at this time.

The Chairman: May I draw to the attention of the Committee and the witness that if possible we would like to conclude at 10 o'clock. This is no reflection on the previous questions but could the questions be made short and/or answers an attempt made to keep within the three-quarters of an hour deadline? It is not an admonition in advance to you as the next questioner, Mr. Gray.

Mr. Gray: I will have to cut down my introductory remarks, which I had intended devoting to saying that I think we should be particularly flattered as a Committee to have before us this evening counsel of Mr. Wright's eminence. It shows the seriousness with which clients treat this matter, by asking

him to appear with them to express their point of view, which he has done most forcefully and effectively, as he usually does.

Because of your stricture, Mr. Chairman, I am cutting other remarks I might have made along these lines a little shorter than I would otherwise have done. If you have any complaint to make about that, Mr. Wright, you can take it up with the Chairman.

I wonder if I may respond to Mr. Wright's invitation and spend a few moments discussing his comments about the appeal tribunal. On page three of the brief Mr. Wright stated:

As an indication of the absurdity of the proposition...

referring, of course, to the appeal division:

...you must realize that there is virtually no precedent for such legislation.

I think in answer to a question by Mr. Barnett he again said he wanted only one illustration. He made some reference to the old Board of Transport Commissioners. It would seem to me, Mr. Wright, in your comments to Mr. Barnett dealing with the wartime situation, you have given us a very interesting precedent. You have told us there were appeals from regional administrative tribunals dealing with labour relations to the National War Labour Board in Ottawa, another administrative tribunal. Is that not right?

Mr. Wright: I am very glad you raised that point. Go ahead.

Mr. Gray: I just wonder...

Mr. Wright: Shall I deal with it? I am delighted you mentioned it. What was the reason for establishing that appeal system? It was the first experience—surely you are not now analogizing between the two—that we in Canada had ever had with labour relations in terms of having certification machinery. It was the first time that we in Canada had anything even resembling a labour court. It would have been absurd if PC-1003 had been applied differently in different parts of the country. In order to make sure there would be uniform application of the federal legislation, this Board in the brand-new context—remember, collective bargaining was unknown...

Mr. Gray: Not completely.

Mr. Wright: Just a minute. Collective bargaining was practically unknown in most parts of the country a few years before PC-

1003 was introduced in 1943. The purpose for the establishment of an appeal procedure was to make sure there would be uniformity in application. Obviously there is no need to establish another board to oversee the Canada Labour Relations Board to make sure there is uniformity, so the two situations are not analogous.

• 2120

Mr. Barnett: One brief supplementary question. Was the fact that a large part of the working force normally came under provincial jurisdiction also involved in this at that period?

Mr. Wright: Exactly, and there had to be uniformity of application.

Mr. Gray: Mr. Wright, I do not disagree with your analysis of the reasons for creating this appeal system. I am also not saying that the situation we face today is analogous with the one which existed during the war. I was attempting to point out that—you provided the example yourself, and I thank you for it—contrary to what you say on page 3 of your brief:

Where an administrative tribunal is given a discretionary power, it is unthinkable that the discretion should be the subject of an appeal.

There is, in fact, a very interesting precedent, whatever the reason for it, whereby the decisions of one or, for that matter, a number of administrative tribunals were reviewed on appeal by another administrative tribunal. That is all I want to say.

Mr. Wright: Mr. Gray, of course I am here to be criticized, and I assume that you would establish the same yardstick where you are concerned.

Mr. Gray: It happens all the time.

Mr. Wright: I respectfully submit that this is not logic on your part, it is sophistry. It is a fallacious form of reasoning, and you must know it. You said I had brought up an illustration. I pointed out that we were dealing with a brand new piece of legislation and that it would be absurd if it were applied differently in different parts of the country. I also pointed out that there has been no appeal tribunal in any other part of the country since the jurisdiction was returned to the provinces. Let us have intellectual honesty in this matter. Therefore I am saying to you that

any attempt on your part to drag out the suggestion that there is some precedent of some kind really cannot be very satisfying.

Mr. Gray: Something occurred to me while listening to your remarks that had not occurred to me previously and there seems to be some similarity. If you disagree with me...

Mr. Wright: I say you are straining; I say you are reaching.

Mr. Gray: I wonder if, in addition to the Board of Transport Commissioners to which you referred, there is not another example? What about the Tariff Board? Is there also not an appeal from the Tariff Board?

Mr. Wright: To the Cabinet?

Mr. Gray: From the Tariff Board.

Mr. Wright: You want to establish the Cabinet as the appeal tribunal?

Mr. Gray: I am not suggesting...

Mr. Wright: This is the precedent that you are advancing. In other words, you want the Cabinet to make a political decision on all of these things. The collective legislators will decide on the wisdom or lack of wisdom of that. I shudder to think what could happen.

I point out to you that there is no precedent. In our system of jurisprudence, as we understand it, if you give discretionary power to an administrative tribunal—as a lawyer you will appreciate this—that tribunal has the right to exercise its discretion. You do not give with one hand and take away with the other. You do not give it discretion, which it has exercised for some twenty-five years, and then say, that we will have someone review that exercise of discretion. I ask you, sir, with the greatest personal respect, to give me one illustration of that.

Mr. Gray: I have just given you one. You said that it did not apply because it arose out of different circumstances. I am sure you will not disagree with me that in the illustration I gave you the administrative tribunal's decisions were being reviewed by another administrative tribunal, even though the circumstances and the reasons for it were different.

Mr. Wright: Mr. Gray, again I respectfully say that you are reaching. If you can see any similarity there it cannot possibly satisfy you; it simply cannot.

Mr. Gray: No, but you asked me for an illustration and I gave you one. You can disagree...

Mr. Wright: They are just not comparable.

Mr. Gray: Let me ask you something else. You say it is unthinkable that the exercise of the discretion of an administrative tribunal should be the subject of an appeal. I would like to ask you why it is unthinkable. Should we not be prepared to think the unthinkable and boldly face the possibility that such decisions may not always appear completely fair to the parties involved? Should we not consider whether it may be possible to create special appeal provisions, where administrative tribunals have been exercising discretion? Why it is unthinkable?

• 2125

Mr. Wright: I said it was unthinkable because in our administrative tribunals we operate within a certain framework. They are not free from review by the courts. You know very well that the decisions of an administrative tribunal, even though the Act says that the Board's decision is final, conclusive and not open to question or review—and it does say that—are reviewed by way of *certiorari* every day of the week in the courts. We have to be specific in this and in the application of our logic. It cannot be wishy-washy logic. I respectfully submit it has to be clear logic. The review has to be one of two kinds. It either has to be a review on the juridical aspect, as to whether or not there has been a denial of natural justice, a refusal to exercise jurisdiction or an excess of jurisdiction, or it has to be a review of the discretion itself.

If it is the first, the courts are there for that purpose. I am sure you do not expect the appeal tribunal to usurp the functions of the court. If you do, you are invading the powers of the court. If you have someone else there to apply the same mental process to the same problem, then I repeat that, in my view it is unthinkable because it is nonsensical. I may have been wrong in using the word "unthinkable". I think I should have said "nonsensical", because it does not make any sense.

Mr. Gray: I wonder, Mr. Wright, if you are not like some of the people we see around the House of Commons who are so accustomed to operating within a certain framework of rules and precedents, which they have dealt with over a number of years, that it is impossible for them to take a fresh look at the whole

structure in which they operate and see whether or not there are other ways of doing things.

Mr. Wright: I do not know what you mean by a "fresh look", but that is up to you. Perhaps you are right; perhaps I do have my mental blinkers on, but I do not think so.

Mr. Gray: You are very accustomed and at ease when you work within the present system. You do so very successfully and skillfully, and I compliment you on that.

Mr. Wright: I do not know what that has to do with the issue before us.

Mr. Gray: No, I was not suggesting you, personally, but the people who are with you. Possibly you are like some of those people who have been around the House of Commons much longer than myself, and others like me, who are so accustomed to working in a particular way that to them any other approach is either unthinkable or nonsensical.

Mr. Barnett: Mr. Chairman, I wonder if I might intervene just for a moment to ask Mr. Gray whether Mr. Wright has not already pointed out another approach to appeal, which he mentioned in reference to the Board of Transport Commissioners and which also applied to the Air Transport Board? Where there is an appeal it is directly to the Cabinet which, in a direct chain of responsibility, is responsible to Parliament.

Mr. Wright: I did not wait for anyone to point it out to me. I pointed it out to your Committee. I am aware of this.

Mr. Barnett: That was the question, in effect, that was posed to Mr. Gray, whether he would suggest this should be the alternative, which is based on precedent and practice and which certainly is one on which many Cabinet Ministers have expressed grave doubts, as those of us here well know.

Mr. Gray: I agree with them in expressing this concern.

Mr. Leboe: Mr. Chairman, in fairness to Mr. Gray I think it should be pointed out to the Committee that Mr. Gray was trying to establish that there was a precedent, without any reference to the statistics or the whys and wherefores, and the precedent was mentioned by Mr. Wright. I think that was as far as Mr. Gray intended to go. I should explain that. I am not a member of his party. When he mentioned further appeals to the Cabinet it was automatically suggested that this was what he

was intending to imply, and in all fairness I do not think Mr. Gray was trying to imply that at all. That is all I have to say, Mr. Chairman.

Mr. Gray: I never mentioned appeals to the Cabinet. I think it would be most inappropriate under these circumstances.

Before turning the floor over to somebody else, perhaps I could deal with another matter. I note, according to the proposed legislation, that the people who are to be appointed to the appeal division—I think it is interesting that the drafter of the Bill attempted to be rather careful by saying that this division would be part of the Board and the members of the division would be members of the Board for the purpose of the appeal, which may have some bearing on the point of view put forward in the brief for setting up a separate section but I am not stressing that point—are referred to as being representative of the public interest. I would presume this approach created grave doubts and suspicions in the minds of the Brotherhood of Railroad Trainmen, judging by the language used in the brief when it referred to "overseers" and wanting "to ensure that the wishes of the government would be enforced", and so on. However, I notice on page 10 of the brief that the following appears:

• 2130

After all, it is the responsibility of the Board to protect the interests of the public and the employer as well as the interests of the employees.

This is at the top of page 10. Lower down on the page there is a reference to the obligation of the Labour Relations Board as being one which will:

take into account the point of view of Management, the point of view of Labour and the point of view of the public.

If this is so, I wonder what is wrong. I raise for the purposes of discussion, if for no other reason at the moment, the matter of having the public interest represented on the Labour Relations Board.

Mr. Wright: As I understand the public interest, I agree with you. The public interest should be represented on the Board and I have always thought of the Chairman as representing the public point of view.

Mr. Gray: To conclude, have your clients given any consideration or study to the

approach used in the Province of Quebec under the Quebec Labour Code for dealing with interunion conflicts?

As I understand it, there is a representative board, a chairman and a member of vice-chairmen and when matters of this sort arise—for example, conflicts between two unions groups with respect to appropriateness of bargaining units—the representative members of the board hear the evidence and discuss the matter with the chairman, but the final decision is taken by the chairman alone.

Have your clients any views to express at this time on whether this might be a useful approach in this type of situation?

Mr. Wright: We have not thought about it at all. May I just say that at previous meetings of this Committee the point was made by the Minister of Labour and others that not only must justice be done, but it must seem to be done—you know, that whole line of reasoning.

I think there is something that is important. I had intended to look it up just to be sure of my facts but unfortunately I did not have the chance, but I am persuaded almost to the point of moral certainty that this issue is an afterthought on the part of the CNTU. It was in this context this was raised which leads to your suggestion, I am sure.

I point out to you that the CNTU was represented by counsel at all of the hearings in question. I know this; I was counsel on the opposite side. You know very well that if there is bias on the part of a member sitting on the bench, let alone a member of an administrative tribunal, you will challenge him for bias. I think it is strange, and interesting too, that at no time was any charge or challenge based on bias raised at any of these hearings that they are complaining about now.

I am saying to you that they would have challenged whomever they were afraid of if they had reason to be apprehensive that there might be some bias exercised against them, but they did not. You see the afterthought, and I suggest to you in all seriousness that you are falling for that argument.

Mr. Gray: This is a matter I might have brought up otherwise if I had another turn for questioning, but let me ask you this: In view of the makeup of the Board, the fact that with the exception of the Chairman everyone on the Board is considered to be

representative of either labour or management—and by the Act this is specified; the appointments of the government are in fact almost automatically the appointments of those that are nominated by the particular labour groups—what good would a complaint of possible bias or partiality have done?

Mr. Wright: Well, surely now, surely if...

Mr. Gray: This may be a naïve question and...

Mr. Wright: No, I do not think it is naïve, but I have never had bias raised before. Several years ago in...

• 2135

Mr. Gray: While you are thinking about that let me ask...

Mr. Wright: No, I would like to answer you. Several years ago when there was a spate of hearings before the Canada Labour Relations Board involving the SIU, and the SIU at that time was not part of the CLC, they challenged the late A. R. Mosher on the grounds that he was biased and asked him to disqualify himself. He refused to do it. The matter was taken to the courts by way of *certiorari*. It was raised before—and I do not remember the name of the judge—the weekly court, the Supreme Court of Ontario and I acted. The judge did not see any merit to it at all and that was the end of it. I should say, to complete the record and with accuracy, that an appeal was contemplated at that time by the SIU but Mr. Mosher died just before the appeal went on.

I say to you that there were good counsel representing the CNTU and if they were really concerned about the question of bias they would have raised that question there, and if the man had refused to disqualify himself on the grounds of bias they would have taken it to the courts and the courts are careful to protect people in situations of bias. But they did not and I ask myself, why?

Mr. Gray: This is a question that concerned me; in fact, I was going to ask you if you could give us the benefit of your experience with respect to questions concerning partiality and bias of judges and the practice they follow.

Mr. Wright: Of judges? Heaven forbid!

Mr. Gray: No, no. I am asking whether it is not correct that at the slightest intimation in

a court proceedings that the judge may not be impartial, he almost automatically withdraws and has the case heard by someone else. He does not adopt a mantle of...

Mr. Wright: Not necessarily. Look, I have spent all of today before this much-maligned Canada Labour Relations Board. There were three unions before them; in fact, we are still going strong. There was the Brotherhood of Maintenance of Way Employees, the United Steel Workers of America and the CNTU; two CLC affiliates and the CNTU.

Now, I assure you that the people who appeared today for the CNTU are not the least bit worried about this matter of bias because everything we were discussing today dealt with the technical aspects of industrial relations. I am saying to you that there are two faces in this picture, the face before the Board and the face on the political front, and they are not the same.

Mr. Gray: I shall conclude by saying I am not suggesting bias on the part of the members but I can see, because of the method of appointment and the continued affiliation of the Board members, that someone perhaps quite wrongly and for motives that can be speculated on can insist that he feels there is an appearance of impartiality.

Mr. Wright: Then that is in the eyes of the beholder, I suggest.

Mr. Gray: Is that not the problem?

Mr. Wright: No; a man may have an astigmatism.

Mr. Gray: Perhaps we are proposing a legislative set of glasses.

The Chairman: Mr. Leboe?

Mr. Leboe: Mr. Chairman, I shall take only a minute. What do you expect the effects of whether or not this bill passes will be on the Canada Labour Relations Board? Listening to the evidence given before the Committee from time to time I have a feeling that regardless of what happens to the Bill the effects of the Bill are going to remain with us. Do you feel this is the right assumption?

Mr. Wright: I think this will really depend on those who have raised this fuss. If they want it to remain it will remain. After all, I think possibly you are directing the question to the wrong party. The people whom I

represent do not find anything wrong with this. The objection has come from one source only.

Mr. Leboe: I was thinking about the effects of our discussions here in relation to the Canada Labour Relations Board. If I were on the Board and had read all the evidence before this Committee I was wondering what effect it would have on me as a member of the Board, and whether you had any comment to make on what you thought the effect might be, whether the legislation was passed or not.

Mr. Wright: I will answer you quite honestly. If I were a member of the Canada Labour Relations Board and I saw this legislation in Bill C-186 and read some of the things that have been said in this Committee, you would have my resignation. That is my personal subjective approach; at least I think I would make my position clear that if this ever passed I would quit. Again, this is my personal reaction.

• 2140

Mr. Leboe: It is your personal reaction I was looking for because, after all, you are dealing with labour matters. Now, I am going to be rather rough on you in what I am going to suggest. Listening to your presentation of your brief and your interpolations, and I refer you to page 1, where it says:

—Governments and politicians are not normally prepared to admit that their legislation has contributed to a deterioration of sound Management-Labour relations; it is much easier to blame Labour.

I must say I do not agree with you on that statement because this is a sort of scatter-gun approach. I think there are many sincere and well-informed members of Parliament who read a lot, work very, very diligently on some of these matters and have a great deal to offer. There seemed to be the implication of intimidation all through the brief, and I refer you to page 3 where it says, "It is simply absurd...", and further down it says, "As an indication of the absurdity...". On page 5 it says, "Surely any other approach would be grossly irresponsible."

I will turn now to the climax on page 12, where it states:

One cannot deny that Parliament has a right to legislate on the subject matter in question. One must consider, however, whether Parliament should interfere...

Let me point out that Parliament has the right to interfere any place, because that is what we are here for. To continue:

...in this manner in the technical considerations involved. Members of Parliament have been known to be affected by considerations which are strictly political and this attitude can contaminate the atmosphere in Management-Labour relations and this is nowhere better demonstrated than in the official position taken by CBC in this matter.

I do not see the relationship between members of Parliament and the CBC. I take strong objection to the inference that the members of this Committee or members of the House of Commons are here as sort of playboys, or anything else, and that they do not take seriously those matters which come before the House of Commons and this Committee, or any other committee. We have had this sort of comment before, and I object to this type of attitude. I have been up and down the railroad; I have worn out two motor cars on railroad tracks in my lifetime. I have travelled more miles in a caboose than I have on a passenger train and I have never worked a day for the railroad. I want to say in all sincerity that the tone of this brief does not represent the attitude of the men I know and have been associated with all my life on the railroad.

Mr. Wright: May I say this to you, Mr. Leboe.

Mr. Leboe: I am just trying to be honest with you.

Mr. Wright: As the person responsible for the authorship of this brief I am sorry if it falls on your ears in the way that you have indicated; I really am genuinely sorry. I do not think the conclusion can be drawn from this brief that there is any degree of irresponsibility on the part of members of Parliament. I think we have the right to be outspoken on a matter which is steeped in a political way. I say that Bill C-186 cannot be justified in the context of labour relations, if you pass it you are doing a disservice in the field of management-labour relations. I am entitled to say that in the strongest terms, and I assume that you would expect me to do so.

Mr. Leboe: I sympathize with your position, but I do not sympathize with the scatter-gun approach.

• 2145

Mr. Wright: If there is anything I resent, it is a scatter-gun type of logic. You said you were going to be rough, and you meant it. However, in case there is any doubt, I say that Bill C-186 is absolutely absurd because it is an absurdity. I say that it is a mischievous piece of legislation. You said I used strong terms. I say it calls for strong language because I think this is terrible legislation and I think the people I represent have a right to say so.

Mr. Leboe: This is the point I would like to make. I do not feel this reflects the attitude of the people I knew—and knew very well—and with whom I worked up and down the railroads. I was in the lumber business and in touch with every phase of railroading from the maintenance of way employees right up to the top brass in Montreal. By using such strong language you have the advantage of a reply, and I am prepared to leave it at that.

Mr. Barnett: I have heard much stronger expression from railway workers.

[Translation]

Mr. Émard: Mr. Chairman, I do not believe that Mr. Wright lives in my constituency. I must add that it was perhaps due to my antecedents, but I have not been irritated by the tone of the brief which was submitted to us. I wish to congratulate Mr. Wright and the Brotherhood of Railway Trainmen. In fact, this brief is short, precise, and very well documented. I have no intention of bringing up the arguments that have been come back many, many times, but I would like to comment on one of Mr. Wright's remarks.

Mr. Wright, if I have not misunderstood your comments, concerning the American unions, you seem to be somewhat harassed by the fact that the American ascent in international unions was criticized. I am among those who believe that the Canadians should have a strictly Canadian union movement. Canada is the only country in the world whose labour movement is controlled by another country. Even though that country is our friend, even though American trade unionism has founded and subsidized Canadian unionism, I believe that the Canadian labour movement now has enough maturity to manage by itself. Canadian workers should do all that is in their power to set themselves free from American influence.

[English]

The Chairman: I think that is a statement of political philosophy.

Mr. Wright: May I say, Mr. Chairman and members of the Committee, that I do not accept Émard's proposition that Canadian workers are under the supervision of American unions. I think you must agree that Canadian workers are entitled to decide for themselves who will represent them. I assume you would agree that the principle of self-determination is a very important factor in this whole scheme of things. If the workers of this country feel they are being properly represented by trade unions whom you regard as American and whom they regard as being international, then you should have no cause for complaint. You have opened the door to a very broad subject. We could discuss this matter for hours, as you know, but I am not going to go into the question of the ownership of Canadian industry by American interests.

Mr. Gray: You can come to the Finance Committee later this morning.

Mr. Wright: I am not going to get into that part of it, and I do not think you can discuss one aspect of it without discussing the other. I must tell you with the greatest sincerity that I am sorry you said they are represented by American unions, by American labour. I wish that you would expose yourself to some of the practices in some of these organizations because I think it is important. They have complete autonomy. These are matters which they as Canadian citizens are as much concerned about as you are. These are Canadian citizens you are talking about who do not knuckle under to any Americans who tell them what to do or what not to do. They are the masters of their own destiny in this, and no American makes these decisions.

Nevertheless, nothing is black and white. There are some aspects of it where there may be some merit to what you say, and I do not deny that. But it is not a matter of Canadian workers, and I think it would be an unfortunate thing if we were to go forth from this meeting thinking that there was any general consensus that Canadian workers are under the domination of American unions. That would be wrong, to say the least, and it would simply not be in accordance with the facts. To give you a complete answer would take at least an hour because I would have to

go into individual illustrations in the federal jurisdictions. I am prepared to do it, if you wish.

Mr. Munro: I have a supplementary. If you want a perfect example of an invasion of Canadian sovereignty which indicated the dominance of the international trade union movement and the fact it was a detriment to Canada's best interests, you might go into the implications of the SIU matter, Paul Hall, and the tie-up on the Great Lakes two or three years ago. I am sure you are aware of the background of that situation, Mr. Wright.

• 2150

Mr. Wright: Yes, I know something about it. For your information I acted as counsel before the Norris enquiry. And what was the position of Canadian labour? I am glad you brought that up because it is a perfect illustration. Who blocked the St. Lawrence Seaway? Canadian labour did. Why did they block it? Because the people at Ottawa were not listening to what they were being told. The government was being told that American unions were interfering in the affairs of Canadians in a certain manner, which was improper, and the government would not listen and the only way that Ottawa could be made to listen was by blocking the Welland Canal.

Mr. Munro: And when the Canadian government threatened and finally went through with the threat, with the support of the CLC, in imposing a trusteeship, what was the countervailing threat from Paul Hall in the United States?

Mr. Wright: I am not...

Mr. Munro: Well, it is a simple question.

Mr. Wright: I am not arguing with you on this point. I am not arguing this point with you at all because, quite honestly, I do not think that you are going to get too much disagreement from me. This is a personal view on my part too. The fact is that if there are changes that have to be made, fine, so be it. But I have some difficulty—and this is really an aside—to direct ourselves to Mr. Émard's comment...

Mr. Munro: You wanted an example and I thought I would give you one.

Mr. Wright: Right. I do not see its relevance within the context of Bill C-186.

The Chairman: Maybe we could get back to the Bill.

• 2155

Mr. Émard: I just want to say one thing.

[Translation]

In my opinion, it is a question of principle, and not a question of established cases. I am aware that the situation is different when it concerns Canadian economy; I know that there is absolutely no way of our freeing ourselves from American economical influence, but I do believe that from a union point of view, we are able to do so. I shall conclude because, as you say, we could discuss this for a long time. I would nevertheless want to draw your attention to a book that was recently published in English. It concerns a study made by a professor from the University of Toronto, I believe. I cannot remember immediately, what the name of it is, but I know that you can read in it how Canadian unions are dominated.

[English]

Mr. Wright: Oh, yes, you are talking about John Crispo's book.

Mr. Gray: Mr. Chairman, can I raise a point of order. You mentioned that we might adjourn at 10 o'clock. There are other members, who have questions and since I, for example, was given the courtesy of being heard by other members I would be quite happy to stay after 10 o'clock so that other members could ask their questions. We have a very important group with us this evening and I would propose to you and to the Committee that we do remain beyond 10 o'clock so that those who wish to do so can complete their questioning in a reasonable manner.

The Chairman: I think that is a good idea.

Mr. Émard: Provided Mr. Gray does not ask any more questions.

The Chairman: I think that is probably the feeling of the Committee. However I really think we should try and confine our cross-examination to the contents of the Bill as much as possible. I know that is quite a request to make of this Committee, but perhaps I could make it by way of a preface, Mr. Munro, to your cross-examination.

Mr. Munro: It is not cross-examination, Mr. Chairman, just questions.

Mr. Wright, I do not think this talk about the nature of the present Board, bias and so on, is really relevant. Also, I do not think it is really relevant whether this principle that was enunciated by the Minister of Labour, that we should be concerned not only that justice be done but appear to be done, was an afterthought on his part or not. What is important, to me at least, is whether it has any merit.

Now this is a representative board made up of labour representatives and management representatives. We are perfectly aware of how these appointments originated. I do not think any vocal allegations before the Board by an independant union not affiliated with the CLC in respect of bias is very pertinent either. I think the question is how would you, if you were representing the CNTU, feel whether you said it or not, if you went before the Labour Relations Board, knowing its makeup, on an application for certification of a certain number of employees which was contested on the other hand by, say, a CLC affiliate endeavouring to represent the same employees, if the question was the appropriateness of the bargaining unit? Would you perhaps feel, in view of the general tenor of decisions in the past by the Board and the feeling expressed by all the unions, and the CLC, from whence a majority of the membership on the Board came from, some irritation or some sense of resentment over the possibility that you might not get a completely fair hearing?

Mr. Wright: No. I would feel that I would get a fair hearing but I would probably feel, to answer you honestly, that I might have some difficulty in splintering the bargaining unit, because I would have before me jurisprudence which would obviously be against me. But what flows from that, the Board can swallow itself whole?

Mr. Munro: No, but you could add one other thing in that connection. you also would know the feeling as expressed through previous decisions by the present members of the Board.

Mr. Wright: But the feelings of the Board, or rather their reasons for decision, are eminently sensible, and is this not really the important thing?

Mr. Munro: Now what...

Mr. Wright: May I just finish this?

Mr. Munro: You are talking about the decision itself and whether it is just, I am still talking about the appearance of justice being done. Go ahead.

• 2200

Mr. Wright: I do not think you were here when I was putting my brief in the record. I quoted rather extensively from the Board decisions and the two cases that were important, the CBC case and the Angus Shops case. I gave the ratio decidendi, as it were, of the two cases. I ask this Committee to look at the philosophies expressed there and to ask yourselves, do you disagree with anything here?

Mr. Munro: No. I do not disagree, and I am prepared to go along with your reasoning, that absolute justice was done in all these decisions, and there is a rationale that is beyond dispute. All right?

Mr. Wright: All right.

Mr. Munro: So we will get back to the original question about the appearance of justice being done rather than justice being done itself. You also said that you yourself would concede at least this much, that you would be concerned if you appeared before the Board representing, say, the CNTU.

Mr. Wright: Quote me correctly, now. I said I would be concerned if I were to appear before the Board if I were attempting to fracture a bargaining unit, because knowing the jurisprudence of the Board in the past, I would realize that I was trying to get the Board to reverse itself. From that point of view I would have some diffidence.

Mr. Munro: But you also agree that the Board has this power and has done it before.

Mr. Wright: Oh yes, of course, they have; and they have indicated in each case why they have done it and in each case I think it made sense.

Mr. Munro: Do you think it is entirely unreasonable, then, for members of Parliament to overcome what seems to me a reasonable feeling of people that appear before this Board; to try to come up with some formula that might overcome this feeling that representatives of certain independent unions might have that do not have representation on the Board or do not participate in any federal body that makes representations to the Board?

Mr. Wright: It is so difficult to transport into this room the atmosphere that exists in the Board. I know that all members of the Committee are busy, and I am not saying this in any glib or facetious way, but it is just too bad you cannot see what is going on at the Canada Labour Relations Board. I know you cannot, but that does not prevent our criticizing them.

I say that, by the way, not in any ironic sense. I am simply saying that it is so unfortunate that the members of this Committee saying things such as, not only must justice seem to be done, and all the rest of it, were not sitting in that Board as I did today when there was a CNTU union involved. They would have come away without the slightest doubt that justice is being done and that justice appears to be done.

Mr. Munro: I know, but you indicated there were other questions of a technical nature involving labour management relations that may have had nothing to do with the appropriateness of the bargaining unit; I do not know. In fact, in most cases when you appear before the Board I suppose it would not deal with this question and perhaps an independent union would not feel a grievance. But this is a particularly sensitive area we are talking about now. So, following that, I wonder...

Mr. Wright: I have difficulty in following you. Look, you are saying to me that you accept the proposition that the rationale expressed by the Board is correct. And you say that...

Mr. Munro: For the sake of argument, yes.

Mr. Wright: All right, for the sake of argument. You accept that as being correct.

Mr. Munro: Only to try clearly to demarcate these two areas we are talking about. I thought, Mr. Wright, when you started to talk about the good sense in their decisions you were again trying to elaborate, which you have done very well, the appropriateness of the decisions that were in fact made. That is not what I am talking about at all.

I am talking about what somebody subjectively feels when he goes before the Board, a board made up of labour representation in which they have no part at all in terms of influencing their appointment. In fact, they know the majority of appointments emanate from a trade union movement that is opposed to their very existence. So, I say to you it is not unreasonable that you might feel some

type of grievance; it is not unreasonable at all. In fact, I think you would be a very weird person indeed if you did not feel a little unhappy about the situation whether you expressed it or not.

So I am saying if, as members of Parliament, we do come to the conclusion that such a person would not be unreasonable in feeling this type of sentiment, then we come to the problem of what do we do to overcome it. That brings to mind a question that Mr. Gray asked you. Again I say this is no criticism of the Board; the Board is made up the way it is, it is a representative Board and there is no criticism implicit in my remarks in that direction at all.

• 2205

This brings us to the question, then, if we want to do something about it what is the best way we can do it? How about a single Chairman, as Mr. Gray put to you—we will put this on the most limited grounds to start—where there is contestation between two unions that desire to represent roughly the same group of employees and the issue at stake is the appropriateness of the bargaining unit and the criteria upon which that decision will be made? In those limited circumstances what is wrong with having the Chairman alone make the decision?

Mr. Wright: Mr. Munro, I do not want to talk off the top of my head. I really have not thought about this. What I do find disturbing—and I must say this—is that I feel you are a pleasing a sensitivity that has been deliberately self-imposed; it keeps coming up here and obviously it has made some headway. In other words, I say that the CNTU obviously has made some headway; it is a sensitivity that is self-imposed and, having said that, I cannot very well elaborate.

Whether the Chairman should be the sole deciding voice I do not know. When I say that I am deliberately not expressing any opinion because I just have not thought about it.

Mr. Munro: Although it has broader application in Quebec, it is a formula and it is used in that province provincially.

Mr. Wright: This is in the Province of Quebec?

Mr. Munro: Yes.

Mr. Gray: We should really insist on Mr.

Wright's commenting on this in detail. Perhaps he may, on behalf of his clients, look into the matter and be willing to send us a little memorandum at the expense of the Brotherhood of Railroad Trainmen, of course, not the Committee.

As I understand it, the Quebec Labour Code provides that in questions of inter-union conflict the decision is not made by the Board as a whole voting in the accustomed manner—it is by the Chairman himself. The representative members of the Board are not excluded from this consideration; they sit, they hear the evidence and then, in effect, they act as assessors to the Chairman in assisting him to reach his final decision.

Some of us thought this was worth exploring because in that province we have really two major labour centres, the Quebec Federation of Labour which is the Quebec arm of the CLC and the CNTU, and whatever one may say about the CNTU as a national union there is no question that it is a rather substantial force in that province, although admittedly the QFL does have more members.

Mr. Wright: I should certainly like to think about it, but I should point this out...

Mr. Gray: I just want to add that so far as we are aware the system is working and apparently neither of the major labour groups, and I include the QFL, is waging any campaign against this approach.

Mr. Wright: I am not arguing against this nor am I arguing in favour of the proposition. You have taken me by surprise; I have not thought about it.

But I cannot help but point this out, and does it not strike you as passing strange? In the Province of Ontario the Board is constituted basically in the same way as under the Dominion legislation, but not quite the same nuance because CNTU is not a force for practical purposes in the Province of Ontario. But you have management and labour representatives and the public interest, the chairman; they all sit, they all vote, they have a voice in and a vote on all decisions.

Now, let us take people like the Teamsters that are not affiliated and the operating engineers that are not affiliated with the CLC; there are a number of independent unions that are not affiliated. Does it not strike you as strange that in all these years there has not been a single complaint of bias against them in the Ontario context, but there has

been this whole furore created by the CNTU? That is why I say this is self-induced hysteria with a political springboard behind it. As far as the proposition that Mr. Munro advances is concerned, I do not know; I would like to think about it.

● 2210

Mr. Gray: I think in fairness that is all we can really expect from Mr. Wright and his colleagues.

Mr. Munro: Mr. Chairman, I have only one or two other questions. You indicate that if, in the odd case, national bargaining units should be fractured or fragmented and a group of employees carved out of a national bargaining unit it would result in chaos.

Mr. Wright: Not necessarily. I have given specific illustrations. I think you have before you some statistical evidence of 70-odd cases where the Board has done precisely that, if I am not mistaken. On page 7 of the brief there are three specific cases where the Board dealt with this situation, one of them involving the CNTU, and in all cases there were good reasons for splintering the national unit. My point is that the Board is not addicted to the idea of a national unit. If, for good labour relations reasons, it ought to be fractured they do agree and they have agreed.

Mr. Munro: On page 13, the first sentence of the second paragraph is,

What effect would fragmentation of the National Bargaining Unit have upon the employees represented by the Brotherhood of Railroad Trainmen? Beyond any doubt, it would lead to industrial chaos.

Mr. Wright: That is right, it would; it certainly would. Do not take it from me; I would rather you took it from either one of these gentlemen if you want an in-depth explanation. They would be glad to tell you what would happen in terms of their seniority rights that are the subject of agreement and how they would begin and end at the borders of the Province of Quebec.

Mr. Munro: Well, "chaos" has been used here and it has been used in a wider context if this type of carving out takes place. All I am saying to you, of course, is that this is based on the premise that it would be impossible for the successful union to obtain certification for a unit within a formerly national bargaining unit. The two unions involved would never get together at bargaining or any

other time to form any type of counsel or any type of agreement of what their aims were. Obviously that is based on the premise that there would be no coming together of the two rival unions.

Mr. Wright: Well, let us face it; at the present time there is not all sweetness and light there.

Mr. Munro: No, but it seems to me that at the same time it could be unduly pessimistic when we are talking in the context of chaos.

Mr. Wright: No; I really do not think so.

I think Mr. LaRochelle would like to tell you something about that.

[Translation]

Mr. LaRochelle (General Chairman of the Brotherhood of Railway Trainmen): Mr. Monroe, in fragmenting the bargaining units, it is certain that our seniority rights would be endangered because of the fact that we benefit from interprovincial rights, if you will, which are granted through collective agreement. With the fragmentation of bargaining units, the thus fragmented unions will undoubtedly become rivals, and to be sure, neither one nor the other would be ready to make concessions for the protection of our seniority rights.

[English]

Mr. Munro: Perhaps it is wishful thinking on my part, but I would even hope that some day an obstacle like that could be overcome by agreement within the labour movement.

● 2215

Mr. Chairman, as I understand it, most of the railroad unions now representing the different occupational groups bargain at the same time. Is that right?

Mr. Wright: This was the case in certain of the non-op unions; that is, the non-operating as distinguished from the running trades unions.

Mr. Munro: Yes. And the running trades bargain at another time?

Mr. McDevitt: The three running trades organizations bargain separately; the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen.

Mr. Wright: Obviously the point you are getting at is that if all these 15 organizations

can manage to bargain separately, what is wrong with having one more? However, all the organizations you have alluded to are structured on a national basis. In other words, the sheet metal-worker, who is represented by the Sheet Metal Workers' International Association, gets the same rate of pay whether he is in Lunenburg, Nova Scotia, Toronto or Montreal.

Mr. Munro: Right, they are all structured on a national basis horizontally. However, if one of the organizations was dissatisfied with the terms of its collective agreement and decided to strike, the other unions representing occupational strata on a national plain who were quite happy with what they had achieved in negotiation would also be thrown out of work, would they not?

Mr. Wright: It was precisely from that point of view they banded together and stressed the things they had in common and suppressed the things that were disparate in order to come up with a formula common to all. Actually, you have struck on something that is very basic to the whole picture. They recognize the importance of coming up with some formula and there is give and take; concessions are always made on a national basis. It is not just dollars or money; the work practices on the railways are extremely important—I would be glad to elaborate if you wish—and not the least of which are the seniority rights. For instance, if the Canada Labour Relations Board had certified the CNTU in the Angus Shops, where there are 3,300 employees involved, what would have happened on the one hand to those employees in the Angus Shops with seniority rights that they can apply across the country—or across the region, at the very least—in Canadian Pacific? On the other hand, what about employees not working in the Angus Shops and living in other parts of Canada, who have a right to exercise their seniority rights in the Angus Shops? It is just not that simple.

Mr. Munro: I agree it is not that simple. Really, Mr. Wright, the only point I am endeavouring to make is that we have seen a great deal of what I would consider to be hysteria—not necessarily in your brief—by many people who are terribly concerned with this type of vertical fragmentation. But the same people have not shown the same degree of concern about some type of horizontal coalescing of various units, whether they represent occupational groups nationally or other-

wise, to bargain nationally and prevent this type of industrial chaos we are all talking about. It seems to me, in order to be consistent—if everyone wants to show this great concern—they should look into their own home first.

Mr. Wright: Whose home?

Mr. Munro: At present it is the CLC. It seems to me, as a federation of all these unions, that it could have taken a much greater lead. Some type of coalescing and rationalization within the trade union movement would be quite consistent with the posture they have taken and the one you have taken in your brief.

Mr. Wright: I do not know what comments you are seeking from me. I am not sure I know what you are driving at, to be perfectly candid.

The Chairman: Mr. MacEwen?

Mr. MacEwen: Mr. Wright, what categories of employees do the Brotherhood of Railroad Trainmen cover?

• 2220

Mr. Wright: They are running trades employees. There are engine service employees and train service employees. The engine employees are the ones up in the cab on the diesel. The employees we talk about on the passenger trains would be conductors, train men and brakemen. On the freight trains they would be the conductors and the employees in the caboose, although there is a head end brakeman.

Mr. MacEwen: Right.

Mr. Wright: They also represent people in yard service. This is an oversimplification...

Mr. MacEwen: Those in yard service also.

Mr. McKinley: Would it include the employees who look after express on the trains?

Mr. McDevitt: In some cases we represent the employees who handle express on the trains but generally speaking, with respect to an express messenger, the answer is no. In the main we represent the train crews, the conductors, the brakemen on the trains and the employees in the yards who make up the trains at the various terminals.

Mr. MacEwen: It is on a national basis, of course. If there were a division in unions, would it mean that the members of the crew in these various categories, instead of taking their normal run, would be subject to a run based on union jurisdiction?

Mr. Wright: That is right. Let us stop talking about the Province of Quebec and assume there were seniority rights extending from Alberta into and including British Columbia. Suddenly the Board in its wisdom decides to use the language of Bill C-186 and to certify on the basis of distinct geographical areas. If it is all right for Quebec, why not British Columbia? How absurd it would be—a member objected when I called it absurd—for a man the get off the train when he gets to the boundary, as it were, of the Province of British Columbia.

Mr. MacEwen: Right. Finally, you pointed out in your brief, Mr. Wright, that Section 61 (2) provides:

... a decision or order of the Board is final and conclusive and not open to question or review...

Then it goes on to say, and this is the part I am interested in:

... the Board may, if it considers it advisable so to do, reconsider any decision or order made by it under this Act, and vary or revoke any decision...

So that it is not bound by previous decisions.

Mr. Wright: Oh, no. The Board is the master of its own house.

Mr. MacEwen: Thank you, Mr. Chairman.

The Chairman: I can see how anxious the press are to leave, but I would just like to ask one or two questions. I am troubled by the term "representational board" which was used to describe the Board. In your view, what does the representational board represent.

Mr. Wright: There is a broad breakdown between management and labour. As far as management is concerned, I know this Committee has been told about the origins of the representation. As far as labour is concerned, quite frankly, history is a little out of date. It began in the days of the old TLC and CCL. Is this what you were referring to?

The Chairman: No, I was thinking about the labour group. What does it represent

when it represents labour? Does it represent labour collectively?

Mr. Wright: No, I think it represents a point of view, and if I am not mistaken this is in the Act. Section 58 does not spell it out, but I remember at the time it was introduced in Parliament the expression "point of view" was used; four men were being appointed to represent the point of view of labour, others were being appointed to represent the point of view of management and finally the chairman was to represent the public point of view. I think it is more an attitude than anything else.

The Chairman: Then is there a distinction to be drawn between the point of view of the CLC and the point of view of labour, or is there a distinction?

Mr. Wright: Absolutely not. Anyone who has had any dealings before the Board knows that when they go there they are getting the point of view of labour. There are three points of view to be protected in labour relations; the point of view of the employer, the employee and the public. It is important that the three points of view are represented and not simply that type of labour-political breakdown of a CLC point of view. I do not care what you have been told by the CNTU. You just do not get it. You get the point of view of labour in so far as the labour representatives are concerned.

• 2225

The Chairman: That being the case, it would then not be imperative that the CLC nominate the labour representatives if in fact the position reflected by the labour nominees is not that of the CLC?

Mr. Wright: I do not know. I am not aware who nominated the present people. I imagine they must have been nominated by the labour centres.

The Chairman: Yes.

Mr. Wright: If you are looking to me to suggest who should nominate them, I am not going to get into that. The Governor in Council will surely appoint them.

Mr. Reid: Mr. Chairman, I think we should make Mr. Wright the Chairman of the Appeal Board.

Mr. Wright: I turn it down here and now.

The Chairman: It would seem fairly significant, though, if the labour nominees do not in fact represent what is described as the CLC or the Brotherhood position—that there is what we described as an employee's position—it does not seem necessary that the CLC and the Brotherhood should have the authority to nominate. If they do have the authority to nominate, then I think it is only fair to assume that that authority has some significance and some reason. It is not just a courtesy, it has some significance. We have to decide. Unfortunately I do not think the questioning has dealt with this as extensively as it might have.

Mr. Wright: As a matter of law, of course, they do not have the power to nominate. They do not have the right to nominate. It becomes a matter of good judgment, I suppose, as to who should recommend them. But I put this to you; who is in a better position, who is more logically equipped to recommend them than the established labour centre, or the labour centres, using it in its plural sense?

Mr. Barnett: I wonder if I might make a very brief comment on this? Undoubtedly there was a pattern on the part of labour organizations to establish the idea that government would consult them in appointments of various people, and this is one of them. On

the other hand, I surmise that throughout the years governments have found it rather convenient to not have to accept the entire responsibility for saying to Joe Blow that he is the boy, because later he might be subject to possible criticism from organized groups. It has been a convenient device to give labour groups some voice in the selection, and a convenient device on the part of government to avoid later criticism of their appointments. I think in practice there has been very little objection to the way the system has worked.

The Chairman: Equally there would be no objection, I take it, from the various interest groups which now enjoy the power of nomination if it became the right of consultation. Your group would not object, for instance, if the practice which has now been in operation for a few years—it is not provided for in the statute—were to change from the practice of nomination to a practice whereby the interest groups were simply consulted?

Mr. Wright: Mr. Chairman, I do not consider that I am equipped in that regard to be at all useful to your Committee. The government ultimately decides who is going to be appointed and what criteria are going to be applied.

The Chairman: Are there any further questions? If not, I would like to thank M. Wright, Mr. McDevitt and Mr. LaRochelle.

APPENDIX XIX

BRIEF TO THE COMMITTEE ON LABOUR AND EMPLOYMENT
HOUSE OF COMMONS
ON BEHALF OF BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Re: Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

February 1968

Mr. Chairman

and Members of the
Committee on Labour and Employment.

Gentlemen,

The Brotherhood of Locomotive Engineers is the oldest trade union in the transportation industry in North America. Our union was formed in 1863 and the first Canadian charters were granted in 1865 at Toronto and London. Montreal gained a charter in 1867, followed by twenty-six other towns and cities before the turn of the century. Long before the Industrial Disputes Investigation Act of 1907, the Wartime Labour Relations Regulations (P.C. 1003) or the present Industrial Relations and Disputes Investigation Act, our organization was recognized as the bargaining agent for locomotive engineers.

One of the early and most important gains of the Brotherhood was the establishment of seniority rules. Seniority districts were defined to coincide with the operating regions of the railways and to this day they remain substantially unchanged. Locomotive engineers thus gained job security, mobility and a degree of stability unknown at the time in other industries. Quebec-based locomotive engineers held rights—and still do—to work on lines of the railways extending into bordering provinces and, for that matter, into the United States. The pattern was repeated across the breadth of our country. Nothing in the history of our Brotherhood has threatened this seniority system to a greater extent than Bill C-186. Our organization survived and grew before labour legislation existed; it witnessed the development and growth of labour legislation; and it recognized, as did other labour organizations of the time, the need for labour legislation. The record will show that officers of the organization participated in the development of federal labour legislation and worked for its adoption. We will continue to work for any legislation which will improve

labour-management relations. This Bill C-186 is not such legislation.

The "explanatory notes" to Bill C-186 point out in respect to Clause 1 that that Clause is designed to clarify the powers of the Canada Labour Relations Board. In our view there appears to be no need to clarify the Board's powers. Section 61(1)(f) of the Industrial Relations and Disputes Investigation Act provides:

"If in any proceeding before the Board a question arises under this Act as to whether

(f) a group of employees is a unit appropriate for collective bargaining; the Board shall decide the question and its decision is final and conclusive for all the purposes of this Act."

Under Section 61(2) the Board has authority to reconsider or vary any decision made by it.

Section 9(1) of the Industrial Relations and Disputes Investigation Act provides that on an application for certification,

"...the Board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining and the Board may, before certification, if it deems it appropriate to do so, include additional employees in, or exclude employees from, the unit, and shall take such steps as it deems appropriate to determine the wishes of the employees in the unit as to the selection of a bargaining agent to act on their behalf."

In the interpretation section of the Industrial Relations and Disputes Investigation Act it is provided in Section 2(3):

"For the purposes of this Act, a 'unit' means a group of employees and 'appropriate for collective bargaining' with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer." (Emphasis added.)

These then are the broad powers of the Board. There seems to be no legislative need to clarify the powers of the Board under Section 61 in so far as Section 9(1) and Section 3(2) are concerned. Section 61 gives the Board the authority to decide "any" question as to whether a group of employees is a unit appropriate for collective bargaining. Construed along with the language in Section 2(3) that an appropriate unit can be "any other unit", (emphasis added) it seems clear that the Board already has sufficient powers to address itself to the issue in Clause 1 of the Bill, that is, where a business is carried on "in more than one self-contained establishment or in more than one local, regional or other distinct geographical area within Canada...the Board may...determine the proposed unit to be a unit appropriate for collective bargaining". It is our submission that the Board can now do precisely that. It is true that with respect to the railway industry the Board has generally refrained from adopting a local or regional view of the appropriate unit for this industry. But the Board has not taken this view because it lacked the capacity to act for local or regional units—in a few cases it has where the convenience or special facts were overwhelming. The Board has come down squarely for national bargaining units for national industries because it is sound labour relations. The explanatory note to the amendment proposed in Clause 1 of Bill C-186 is, we think, a not too subtle attempt to present the issue as a deficiency in the Board's powers rather than face up to the fact the Government disagrees with the Board's concept and jurisprudence of national bargaining units. Clause 1 of the Bill is a policy directive, not a grant of necessary powers to the Board. The Board's powers runneth over. What the Government wants is to tell the Board when and where to pour them.

The language employed in Clause 1 of Bill C-186 is somewhat curious. We refer specifically to the second group of businesses which qualify under the Clause. These are those businesses which are carried on "in more than one local, regional or other distinct geographical area within Canada". The more natural language which could have been used to express the catch-all category would have been—in more than one local, regional or other geographical area. The use of the word "distinct" adds nothing to the phrase "geographical area"—either an area has a geographic definition or it has not. In our view

the word "distinct" was inserted so the Board would look at other non-geographic considerations of a distinctive nature. At best, the word "distinct" is redundant; at worst, insidious. It may be the interpretative peg on which the policy hangs.

The evidence given before this Committee does not point to abuse of the Board's powers nor bias towards any union. The situation is really to the contrary. A case in point is an application made in 1958 by an affiliate of the Canada Labour Congress. In this particular case the C.L.C. affiliate applied for certification on the Quebec Central Railway but the Board rejected the application on the basis that the proposed unit was not appropriate inasmuch as it formed part of the Canadian Pacific System. We see two important aspects in the Board's decision. First, it preserved the strength of the engineers on the Quebec Central in bargaining with Canadian Pacific engineers as a part of the whole system, thus taking the employees out of the realm of regional bargaining. It also preserved the right of engineers on the Quebec Central to representation on the General Committee of the Brotherhood of Locomotive Engineers in Eastern Canada, thereby maintaining the method of settling jurisdictional disputes which arise from time to time between engineers on different seniority districts of a railway system. Secondly, it showed that a C.L.C. affiliate had no special status with the Board despite its composition. The decision supported the position taken by a non-affiliated union—which we were and still are—against the position taken by a C.L.C. affiliate which would have fragmented a national bargaining unit. It was a decision against C.L.C. organizational interests, and a decision in favour of sound labour relations.

Clause 5 of Bill C-186 provides for the creation of an appeal division of the Board. The explanatory note to the Clause says that it is new. From the point of view of the usual structure of labour-management matters it certainly is. At the resolution stage of this Bill Mr. Marchand made an eloquent plea to recognize the fact that labour and management are chosen on a parity basis to serve on labour relations boards because each member represents special interests, (Hansard, p. 5002). He also felt that the representative character of labour relations boards should be maintained (Hansard, p. 5003).

In the appeal procedure provided for in Clause 5 of this Bill two persons, representing the general public, may be appointed by the

Governor-in-Council to hear and determine appeals under Section 61A(1) of the proposed amendment. These two persons, in conjunction with the chairman or the person exercising the powers and functions of the chairman under Section 58A, shall constitute the appeal division. Under proposed Section 61A(2) a majority decision is binding. The power of appointment of these two persons lies with the Governor-in-Council. The Bill does not provide any indication as to whether the two persons appointed shall be permanently appointed or appointed on a case-to-case basis. It also seems logical that the Government will have to shop around to find two persons who are in agreement with the concept of regional bargaining units as expressed in Clause 1. To do otherwise would be to defeat the intent implicit in that Clause. It also ensures that the regional concept will have a majority in the appeal division. The issue is simple. Either one agrees that local or regional bargaining units are, in general, in the national interest in pan-Canadian enterprises or they are not. The Chairman may hold whatever view he likes, but the two persons appointed from the public obviously cannot have a contrary view to what is implicit in the statute if Parliament's will (assuming the Bill passes) is to be given effect. In other words, the Bill forces the Government to enquire into the views of its nominees in order to give effect to the directive it is incorporating into law. It would be ludicrous to appoint someone who has a contrary view as that person would be constrained by conscience from giving effect to Parliament's intention.

We reject this proposed appeals division because it violates Mr. Marchand's own principle that the best labour-management structures are those in which the parties interested are represented. It also tends to give the public interest inordinate attention because two members are appointed from the public. It is our submission that the public interest in labour-management relations lies in a policy and practice which ensures equal justice to the parties, labour and management, consistent with equal rights to self help. The public ought not to be the decisive factor in which union, regional or national, is best suited to advance the interests of union members. A properly constituted labour relations board with representatives from both labour and management is the best vehicle to decide which unit, regional or national, is best to advance the interests of union-minded men. The public interest is adequately represented

by the Chairman on the Canada Labour Relations Board. The appeal division is an attempt to "pack the court". It is a rule of men, carefully screened, and not of law.

Our organization takes the view that to, in effect, by-pass the Canada Labour Relations Board on the matters raised in Clause 1 of the Bill is to set up an almost predictable bias in the Government's nominees in place of what can only be demonstrated to be a mathematical basis in the fact that there is only one representative of the Confederation of National Trade Unions on the Canada Labour Relations Board.

The Minister of Justice, Mr. Trudeau, strongly advances the proposition that functionalism is a basic consideration in any possible redistribution of powers under the British North America Act. We are not advancing the proposition that this Bill redistributes any powers in the field of labour relations. But what it does do is highlight regional aspirations by means of the policy directive contained in Clause 1 of the Bill. This step could well be a start in a breakdown of federal jurisdiction. The question is whether this is functionally sound. On the railways the interdependence of the workers' functions, the similarity of their jobs, the interrelation of seniority provisions, and the setting of national wage rates, all tend, functionally, to advance the concept of the national bargaining unit. The economic functionalism of the railway system lies in the fact they are systems. They are not self-contained islands, disparate and unrelated.

The stake of the people in effective and harmonious labour relations on Canada's railway is enormous. We recognize that. The normal tensions of what are fair and just wages and working conditions are great enough. To add to this competitive, inter-union pressures based on local or regional units with a multitude of contract-ending dates is, in our view, to fly in the face of Mr. Trudeau's principle of functionalism. The simple test is: will it work? We cannot see how harmonious labour-management relations on Canada's railways can be advanced by fractions which will inevitably lead not to functionalism but factionalism.

Respectfully submitted,

(J. F. Walter)

National Legislative Representative
BROTHERHOOD OF LOCOMOTIVE
ENGINEERS

HOUSE OF COMMONS

Second Session—Twenty-seventh Parliament
1967-68

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. HUGH FAULKNER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 13

RESPECTING

Subject dealt with in Bill C-186, An Act to amend the
Industrial Relations and Disputes Investigation Act.

THURSDAY, MARCH 14, 1968

TUESDAY, MARCH 19, 1968

INCLUDING

- Second Report to the House
- Index to Witnesses and to Printed Briefs
- Index to Appendices which are not Briefs

WITNESS:

Mr. J. L. MacDougall, Director, Employee Representation Branch, Department of Labour, and Chief Executive Officer, Canada Labour Relations Board.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1968

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Hugh Faulkner

Vice-Chairman: Mr. René Émard

and

Mr. Allmand,	Mr. Lewis,	Mr. Ormiston,
Mr. Barnett,	Mr. MacEwan,	¹ Mr. Patterson,
Mr. Boulanger,	Mr. McCleave,	Mr. Racine,
Mr. Clermont,	Mr. McKinley,	Mr. Régimbal,
Mr. Duquet,	Mr. Muir (<i>Cape Breton</i>	Mr. Reid,
Mr. Gray,	<i>North and Victoria</i>),	Mr. Ricard,
Mr. Guay,	Mr. Munro,	Mr. Stafford—(24).
Mr. Hymmen,	Mr. Nielsen,	

Michael A. Measures,
Clerk of the Committee.

¹ Replaced Mr. Leboe on March 20, 1968.

ORDERS OF REFERENCE

TUESDAY, March 19, 1968.

Ordered,—That the Standing Committee on Labour and Employment, be authorized to sit while the House is sitting, for the purpose of preparing a report to the House.

WEDNESDAY, March 20, 1968.

Ordered,—That the name of Mr. Patterson be substituted for the name of Mr. Leboe on the Standing Committee on Labour and Employment.

. Attest:

ALISTAIR FRASER,
The Clerk of the House of Commons.

REPORT TO THE HOUSE

MARCH 19, 1968.

The Standing Committee on Labour and Employment has the honour to present its

SECOND REPORT

Your Committee recommends that, for the purpose of preparing a report to the House, it be authorized to sit while the House is sitting.

Respectfully submitted,

HUGH FAULKNER,
Chairman.

(Concurred in: March 19, 1968.)

MINUTES OF PROCEEDINGS

THURSDAY, March 14, 1968.

(23)

The Standing Committee on Labour and Employment met this day at 9.47 a.m., the Chairman, Mr. Faulkner, presiding.

Members present: Messrs. Barnett, Clermont, Duquet, Émard, Faulkner, Guay, Leboe, Lewis, MacEwan, McCleave, Ormiston—(11).

In attendance: From the Department of Labour: Mr. J. L. MacDougall, Director, Employee Representation Branch, and Chief Executive Officer, Canada Labour Relations Board; Mr. A. F. Tulloch and Mr. R. B. Duncombe, Industrial Relations Officers.

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

Mr. MacDougall was questioned.

On motion of Mr. McCleave, seconded by Mr. Clermont,

Resolved,—That the following documents provided by Mr. MacDougall, and distributed to the members present, be printed as part of the Committee's Proceedings for this day:

CANADA LABOUR RELATIONS BOARD

Applications for Certification for (a) regional bargaining units and (b) in selected cases for plant units that would fragment existing units, from September 1, 1948 to November 30, 1967. (*See Appendix XX*)

Disposition of 59 "Regional" Cases. (*See Appendix XXI*)

Applications for Certification made by CLC—or CNTU—affiliated organizations wherein such CLC or CNTU affiliates were directly opposed as either applicant or intervener. Period September 1, 1948 to November 30, 1967. (*See Appendix XXII*)

The questioning of Mr. MacDougall continued, in the course of which reference was made to the following document also provided by Mr. MacDougall and distributed to the members present:

CANADA LABOUR RELATIONS BOARD

Between Syndicat National des Employés de la Banque Canadienne Nationale (CSN), Applicant, and La Banque Canadienne Nationale, Respondent.

The questioning having been completed, the Chairman thanked those in attendance.

At 11.03 a.m., the Committee adjourned to the call of the Chair.

TUESDAY, March 19, 1968.

(24)

The Standing Committee on Labour and Employment met this day in camera at 11.13 a.m., the Chairman, Mr. Faulkner, presiding.

Member present: Messrs. Allmand, Barnett, Boulanger, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Lewis, MacEwan, McCleave, McKinley, Munro, Régimbal, Reid—(17).

The Committee resumed consideration of the subject dealt with in Bill C-186, An Act to amend the Industrial Relations and Disputes Investigation Act.

It was moved by Mr. Gray, seconded by Mr. Lewis, that the Committee seek authority to sit while the House is sitting for the purpose of preparing a report to the House.

After some discussion, including references to timing of meetings and approaches to drafting a report to the House, the motion was agreed to.

At 11.37 a.m., the Committee adjourned to the call of the Chair.

Michael A. Measures,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

Thursday, March 14, 1968.

The Chairman: We have with us today Mr. MacDougall, whom we have had before, and with Mr. MacDougall are Mr. Tulloch and Mr. Duncombe, who are both Industrial Relations Officers with the Department of Labour.

Mr. Lewis: Are they examiners? Are they the gentlemen who investigate membership?

Mr. J. L. MacDougall (Director, Employee Representation Branch and Chief Executive Officer, Canada Labour Relations Board): On occasion Mr. Tulloch has. Mr. Duncombe has not undertaken one of those assignments as yet.

Mr. Lewis: But as far as their relationship to the Board is concerned, it would be...

Mr. MacDougall: Oh, they are not here as expert witnesses. I might need to call them into conference, sir.

The Chairman: Are there any questions?

Mr. McCleave: May I ask Mr. MacDougall two very short questions?

The Chairman: Mr. McCleave.

Mr. McCleave: The first question, Mr. MacDougall, refers to one of the two two-page tables that have been given to us, headed Canada Labour Relations Board, Applications for Certification, et cetera, dealing with the period from 1948 to 1967. Does the general pattern that is shown here present a consistent picture of that 20-year period, or would the latter end of the period be more heavily one way than the other?

• 0950

Mr. MacDougall: There was a considerable change in the last two or three years and that is the reason for dividing the period. The top two lines refer to the period from 1948 to 1964 and the bottom two lines to the period 1965 to November 30, 1967, when most of the cases developed in which this Committee appears to be interested. That provision was

made because there was very little direct conflict. We were receiving applications from time to time from CLC affiliates, independent unions and the CNTU, that was then the Canadian and Catholic Confederation of Labour, but there was very little direct confrontation until you got down to 1965 and 1966.

Mr. McCleave: Then the voting pattern of the last few years established clearly a prejudice against the CNTU-affiliated applicants.

Mr. MacDougall: No. I cannot agree with that. You might put it this way, that the CNTU began applying for a different type of bargaining unit. I do not admit that any prejudice was there. They began applying for a fragmentation of units and coming into conflict with guidelines that the Board had established over a long period of years. Even there the Board was willing to fragment in certain situations but they were making a number of applications which brought about a new set of circumstances.

Mr. McCleave: Yes; there was no inference to be drawn from my question, actually, because I believe I had asked you when you appeared before us previously if the Canada Labour Relations Board had worked satisfactorily and you said that in your opinion it had. Perhaps I very roughly paraphrased the question and answer of that time, and you can correct me if I make any wrongful inference. But I take it that in recent years, then, there has been what you might call a pressure towards fragmentation that has brought about these hearings now, for example, and the bill, the measure we are considering.

Mr. MacDougall: Yes. That is so.

Mr. McCleave: Thank you very much.

Mr. Lewis: If I may follow that up, Mr. Chairman. As I recall, there has been something like seven CNTU applications involving fragmentation of units in which some were withdrawn and some were rejected.

Mr. MacDougall: Nine all together; seven involving interveners that were affiliated with

the CLC. Two other cases were in opposition to independent organizations.

Mr. Lewis: Could we have on the record—I think I have looked into it and found it—whether those nine cases, and particularly the seven where unions affiliated with the CLC were involved as interveners, concerned different bargaining units or whether they concerned two bargaining units only?

Mr. MacDougall: They concerned a number of bargaining units. You will find the table that is headed "Applications for Certification" for (a) regional bargaining units and (b) in selected cases, for plant units that would fragment existing units. I say that to identify the table and I will be giving you some page references in a moment.

I would like to correct in a minor way evidence that I gave the last time I was before your Committee. I spoke of this as involving entirely applications made proposing regional bargaining units. On re-examination I found two plant units applications in the Angus Shops case and the CNR Pointe St. Charles case I believe they were, which were not made on a regional basis but did involve the issue of fragmentation.

Now, to come to your question. On page 25 you will come to the first one, a CBC case. The CNTU was applying for production employees in the Quebec division of the CBC. The application was rejected.

On page 26, there was the Angus Shops case and that is wrongly described as regional. This is really a property inside a single fence, although there were stores employees involved as well as shop employees; but that is a minor point.

On page 27, you will find a CBC unit of newswriters and others. In this case, permission to withdraw the application was granted.

On page 28, you will find an application involving both maintenance of way employees and bridge and building employees of the CPR in its Atlantic region. That application was withdrawn also.

The next case is on page 29—an application for employees in the Pointe St. Charles shops of the Canadian National Railways. It was withdrawn.

On page 29, we come back to the CBC newswriters and other classifications. This one was processed through a hearing and rejected.

On page 30, there was no fragmentation issue there. That was a regional case involv-

ing La Banque Canadienne Nationale but there was no intervenor. That perhaps does not fit your question.

• 0955

On page 31, we have again the CBC production employees limited to the Quebec division, Montreal and Quebec City production centres, basically, and that was rejected.

Mr. Lewis: To summarize, there were two applications involving the production employees of the CBC.

Mr. MacDougall: Two applications also of the newswriters of the CBC.

Mr. Lewis: Two applications of the newswriters of the CBC.

Mr. MacDougall: And then a variety of others.

Mr. Lewis: Well, an application for Angus Shops, an application for Pointe St. Charles and an application involving maintenance of way and others.

Mr. MacDougall: CPR Atlantic Region maintenance of way—yes.

Mr. Lewis: So that the CBC and the railways were the two industries involved.

Mr. MacDougall: Yes.

Mr. McCleave: On a point of order—pardon me, Mr. Lewis—I presume that these documents will become part of our records this morning.

The Chairman: If you wish.

Mr. Clermont: What is the question?

The Chairman: That they should be included in the testimony.

Mr. McCleave: No. I think they should be in an appendix.

Mr. Clermont: Yes, an appendix.

The Chairman: Is that a motion?

Mr. McCleave: I so move.

Mr. Clermont: I second the motion.

The Chairman: Just to clarify which documents you included in your omnibus motion—

Mr. Clermont: My suggestion is the Canada Labour Relations Board's two documents—

The Chairman: And the Canada Labour Relations Board, Part 2.

Mr. Clermont: Application for certification and disposition of 59 regional cases.

The Chairman: Right. Also, I take it you mean a third item where you have the application for certification made by the CLC or CNTV or affiliated organizations.

Mr. Clermont: Yes.

The Chairman: I take it that in the case of La Banque Canadienne Nationale...

Mr. McCleave: No. That is part of the public record, from another source, though.

The Chairman: Yes.

Mr. Lewis: If you go back to the disposition of 59 regional cases, you have the CNTU versus CLC, seven cases, four rejected, three withdrawn. If you ignore the three withdrawn, which were the four rejected, and what bargaining units did they concern? If a case is withdrawn, it is withdrawn at the request of the applicant.

• 1000

Mr. MacDougall: Permission to withdraw, on the applicant's request; permission to withdraw.

Mr. Lewis: I am saying that when a case is withdrawn it is withdrawn at the request of the applicant.

Mr. MacDougall: It is.

Mr. Lewis: So that the rejections are the only ones that are really...

Mr. MacDougall: Yes. They are on page 31, the CBC production employees case; page 29, the CBC news writers case in the Quebec region; page 26, the CPR Angus Shops case; and page 25, the case involving CBC production employees in the Quebec division.

Mr. Lewis: In your earlier testimony you were asked:

Do you think that clause 1, which adds subclauses (4a) and (4b) to Section 9 gives any more power to the Canada Labour Relations Board or imposes any burden on them that they already do not have?

And you said:

In my humble opinion the answer is No. The Board may consider whether any bargaining unit is appropriate. It may certify an employer unit, a craft unit or any other unit...

Mr. MacDougall: As clause 1, it may certify for regional units, as we have done, and this is demonstrated.

Mr. Lewis: Were you saying anything more, Mr. MacDougall, as far as you read the words of clause 1 of the new Bill, than that it covered areas in which the Board had already acted.

• 1005

Mr. MacDougall: It seems to me to cover areas where the Board has issued certifications for bargaining units that consist of employees of an employer in one or more but not all of its establishments, and the language of clause 1 subclause (4a) seems to fit a number of cases in which the Board has granted certification. That is all I am saying.

Mr. Lewis: What I gather you are saying is that if you merely read the words of clause 1 subsection (4a) in this Bill it covers the scope of bargaining units which in the past the Board had already granted, and in that sense it did not seem to you to add anything to the power which the Board already had.

Mr. MacDougall: I do not think it creates new powers along that line.

Mr. Lewis: When you say that you do not think it creates new powers, are you making a sort of legal judgment as to the effects which the passing of this Bill may have on the Board in a new situation.

Mr. MacDougall: To answer that I will say, first, that I am not trained in the law, as you know, Mr. Lewis, and second, I am not forecasting that there might not be additional burdens in cases coming before the Board because of the existence of this on the statute books. We might have many more cases of this kind under certain circumstances. They might go further, depending on later clauses of the Bill, but I am not saying anything more than that the Board now has the power to grant regional bargaining units—units involving one or more plants of an employer who has a large number of plants and sections, and this is what I am saying.

Mr. Lewis: So that the words which you used at your last appearance will not be misused by myself or anyone else, let me put it to you this way: There is a disagreement between some of the members of the Committee as to the legal effect of the passing of this Bill. I am, for example, convinced that if this Bill passed the Board could not ignore the

fact that Parliament added a section and that it is the duty of the Board and particularly the Appeal Division, under this Bill, to give weight to the fact that Parliament went to the trouble of adding a new section to the Act. It is my opinion that when Parliament does this kind of thing it is the duty of the tribunal to ask itself why Parliament did so, and not to treat the words as if they were not there. Now are you entering into that kind of discussion?

Mr. MacDougall: I am not interposing myself in the controversy between members of the Committee who might disagree on that point. I have confidence in the past actions of the Board and in the practices and procedures they have developed over the years. I do not consider myself competent to interpose myself in those conflicting opinions.

Mr. Lewis: So when you said that this Bill does not add to the powers or burdens of the Board all you meant was that the words describe possible conclusions that the Board had already reached in the past.

Mr. MacDougall: I feel quite firmly that the Board has issued in the past certifications involving the scope that is contemplated in this new clause 1 to the Bill.

Mr. Lewis: Yes. May I suggest that the word 'contemplated' may not be a happy one.

Mr. MacDougall: Well, perhaps not.

Mr. Lewis: What you mean is not 'contemplated' but covered by the literal meaning of the words in this Bill.

Mr. MacDougall: Yes.

Mr. Lewis: What the Bill may contemplate is what we are arguing about.

Finally, Mr. MacDougall, we had the certification of CUPE a couple of weeks ago for the production unit, which was one of the problems which may have led to the introduction of this Bill.

I hope you will note how uncontroversially I am putting my questions, Mr. Chairman.

• 1010

Can you tell us what the minutes show as to the members of the Board who participated in that decision?

Mr. MacDougall: I do not have those minutes with me. I can forward the attendance to the Chairman of your Committee later today, if that will be helpful.

Mr. Lewis: That is fine. Mr. MacDougall, were you present at the hearing of the latest CUPE application? I am talking about the public hearings; I would have no right to ask you anything about the hearings in the executive session. Were you present at the public hearing?

Mr. MacDougall: I was, Mr. Lewis.

Mr. Lewis: I understand that the local of CUPE was the applicant.

Mr. MacDougall: No, there was no local; CUPE as an organization was an applicant.

Mr. Lewis: CUPE as an organization was the applicant.

Mr. MacDougall: Not a local.

Mr. Lewis: For a bargaining unit of all production employees of the CBC?

Mr. MacDougall: Yes.

Mr. Lewis: Including the Quebec area, the Ontario area and the others across the country?

Mr. MacDougall: Yes.

Mr. Lewis: Did some other union intervene?

Mr. MacDougall: Yes, we had a cross-application from the National Association of Broadcast Employees and Technicians, not for the same unit, but for a unit broader in scope; that organization, commonly known as NABET, intervened against the CUPE application. There was an intervention...

Mr. Lewis: May I stop you there for a moment, Mr. MacDougall? Is NABET an affiliate of the CLC as well as CUPE?

Mr. MacDougall: Yes.

Mr. Lewis: So that those interveners were both affiliates of the CLC.

Mr. MacDougall: They were interveners against each other, as well as having filed applications of their own.

Mr. Lewis: Yes; and did NABET claim membership in the unit that it applied for?

Mr. MacDougall: It applied for a unit that took in not only the production employees, who were involved in the application made by the Canadian Union of Public Employees, but the radio and television employees who are broadly known as the technical group. In

the combined unit they had a majority, in the unit that they claimed was appropriate, and desired to receive certification for; but the Board found that they had less than a majority in the group of production workers. The situation was that NABET already was certified for, and represented on a system-wide basis, the so-called technical group that it has historically represented.

If I may use the expression, the Board felt they did not have a mandate from the production unit alone to add that, and that, in effect, they were seeking certification for the production employees and making use of their overall membership in an existing unit to add the production employees. That application was rejected.

Mr. Barnett: By way of explanation, what classifications of work are covered by your description "technical groups".

Mr. MacDougall: These are audio-technicians, video-technicians and operators of all sorts. It is tremendous. It takes pages to list the classifications included.

Mr. Barnett: These are people working directly with the electronic equipment involved in...

Mr. MacDougall: There is a good deal more to it than that.

Mr. Lewis: It is wider than that. It is the people involved in the production of a radio or television show, other than the cameramen and the...

• 1015

Mr. MacDougall: There are some cameramen; indeed NABET have those who use the electronic cameras; and the production employees take in the film cameramen, and so on. The people using electronic cameras on live production are all in the NABET unit, and have been for years, but you have split on the cameramen. Basically, it is a highly technical group, and they also have some side groups that are not involved in this application, such as building maintenance people, in certain centres.

Mr. Barnett: The actual operators of the control panels in a station would be in this technical group, would they?

Mr. Lewis: Some of them.

Mr. MacDougall: Some of them; on any one control panel you will have a production

employee; a NABET classification controlling the quality of the colour, the sound, and things like that; you will have a script assistant and a producer. There is quite a variety of people in any one control room. The producer is non-unionized because of management functions.

Side by side with them are those who are in both the NABET unit and the production unit. It was because a number of those people, as well as those down on the studio floor or the stage floor, who are in the two units, were working side by side that led to the argument of NABET that this entire group had a community of interest which should lead the Board to certify an omnibus unit for technical and production people.

Mr. Lewis: The Board rejected that?

Mr. MacDougall: The Board rejected it. It made no finding on the appropriateness of the unit. It found that NABET was applying without having established a majority in the group it was seeking to add to its existing bargaining unit.

Mr. Lewis: Had NABET been certified for the unit it had?

Mr. MacDougall: It had.

Mr. Lewis: So it was trying to get the production employees into a unit for which it had already been certified without having a majority among the production staff?

Mr. MacDougall: It was trying to get the production employees into the unit of technical employees that had already been certified not for the production employees but rather for the technical employees.

Mr. Lewis: That is what I meant to say; I expressed myself wrongly.

If you visualize it as two circles, an inner one and an outer one, it had been certified for the technical employees represented in the inner circle and it wanted to add what was outside that inner circle on the basis of its membership in the inner circle?

Mr. MacDougall: Yes, you could look at it that way; or as group A and group B, and so on.

Mr. Lewis: And the Board rejected its application?

Mr. MacDougall: Yes.

Mr. Lewis: And there was another intervenor, I gather? The CNTU intervened?

Mr. MacDougall: An affiliate named Le Syndicat Général de Cinéma et de la Télévision (CSN) (Section Radio-Canada).

Mr. Lewis: Yes.

Mr. MacDougall: Further, just to complete the interventions on the application made by the Canadian Union of Public Employees, on a question of principle, the Association of Radio and Television Employees of Canada, commonly known as ARTEC, and the Associated Designers of Canada—Television, Film, Theatre, a corporation which represents set-designers, costume-designers and graphic-designers—came to argue that set-designers should be excluded because of their artistic abilities and management functions.

Mr. Lewis: Did ARTEC claim any membership?

Mr. MacDougall: No.

Mr. Lewis: Were they there to protect their interest in another unit?

Mr. MacDougall: They were there to oppose the principle of permitting fragmentation of an existing unit. They themselves have a system-wide unit for employees of the CBC, and they did not want to have their own unit attacked or subdivided in subsequent proceedings. They were given the right of an intervener to state their views on the appropriate unit, although they did not attempt to cross-examine witnesses, and that sort of thing. They were there on a matter of principle.

• 1020

Mr. Lewis: For the record, Mr. MacDougall, because I know the answer to this, when you receive an application from a union for certification is it your practice to inform other unions which you think may have an interest in this application?

Mr. MacDougall: Yes, we do, Mr. Lewis.

Mr. Lewis: And to give them the right to intervene if they see fit to do so?

Mr. MacDougall: Yes.

Mr. Lewis: Therefore when you received the CUPE application you informed NABET and ARTEC and...

Mr. MacDougall: The SGCT.

Mr. Lewis: That is the CNTU local?

Mr. MacDougall: Yes.

Mr. Lewis: You informed them all that you had received this application and you gave them the scope of the bargaining unit?

Mr. MacDougall: We gave them one photocopy of the application, a copy of the Board's rules of procedure, a copy of the statutes and we directed their attention to the sections that were pertinent if they wished to intervene.

Mr. Lewis: So every union that might have an interest would know what the application claimed and would be able to come before the Board?

Mr. MacDougall: We try to make our coverage wide enough to include every trade union that may have an interest. We do not always do so. The final intervener, the Associated Designers of Canada, does not hold itself out as a trade union, it is a corporate entity. We knew nothing of their interest. Their counsel wrote us and at his request we sent them a copy of the application. We try to notify those unions of record in the field that may have an interest.

Mr. Lewis: Right. So everybody has a fair chance to come before the Board and have his say?

Mr. MacDougall: Yes.

Mr. Barnett: This question is not directly related to the case under discussion, but it is one of general application. Does the Board have any formal procedure for public notification through the *Canada Gazette* or the newspapers?

Mr. MacDougall: No, not through the news media, but the current practice of the Board employers is that they are required to post a copy of the application, and there is stapled to it a copy of a notice to employees so the employees or groups of employees may notify the Board of a desire to intervene in order to contest an application.

Mr. Lewis: As a matter of fact, I was going to ask about this in my next question. So the practice may be on record, may I summarize it? When you receive an application you inform all the unions of record which you think are in the field that the application has been filed, and you also send them copies of the application and the rules?

Mr. MacDougall: We do.

Mr. Lewis: In addition to that, your rules require that the employer post a copy of the application, with a notice to the employees that the application has been made and inviting the employees if they wish to intervene and oppose the application.

Mr. MacDougall: It states their right to intervene and in brief form it gives them the address and the manner of intervention. There is also a notice to the employer. The employer is then required to post those documents for seven days and file with the Board a return of postings, which is sworn before a commissioner for taking oaths.

Mr. Lewis: If I remember correctly, the posting is not done in one location. If it is a country-wide employer you require him to post it in a large number of locations across the country?

Mr. MacDougall: We leave it to the employer to decide the locations because we do not know them ourselves. However, we make him responsible for posting it in a conspicuous place where it is likely to be seen by the employees affected. This means with some system-wide applications on railways, for example, or the CBC, that we have to provide 150 or 250 copies of an application with attached notices to employees.

Mr. Lewis: Right.

• 1025

Mr. Barnett: May I ask one supplementary question? As a matter of practice, does the Board have any system of notifying the recognized trade union centres, such as the CSN and the CLC, of applications coming in?

Mr. MacDougall: We give notice on occasion to the Director of Organization of the CLC, particularly if one part of the Congress is seeking bargaining rights against another affiliate of the Congress.

As for the CNTU, we endeavour to notify the particular affiliate concerned by one notice, with a carbon copy to someone at 1001 St. Denis Street in Montreal, which is the headquarters' offices, and one registration cost covers both the headquarters of the CNTU and the union we feel is directly concerned.

Mr. Lewis: Did the CNTU claim any membership in the unit in the case we are discussing?

Mr. MacDougall: It did not file a formal reply within the meaning of the Board's rules

of procedure. It made a statement that it had an interest, and because of previous proceedings the Board was aware that it had established a certain membership in the Quebec division of the CBC. The effect of the informal reply they filed, as well as their established interest in earlier proceedings, led the Board to recognize the SGCT as an interested party and an intervener.

Mr. Lewis: Right. What were the representations which the SGCT made to the Board at the hearing?

Mr. MacDougall: Through counsel they asked the Board to hold the proceedings in abeyance until Parliament had disposed of Bill C-186.

Mr. Lewis: And that was the sole ground?

Mr. MacDougall: In substance I consider that is correct, yes.

Mr. Lewis: I understand that the Board, having rejected the NABET application for the reasons you have given us, certified CUPE without a vote on the basis of a 55 per cent majority?

Mr. MacDougall: Yes.

Mr. Lewis: Is that correct?

Mr. MacDougall: Yes, that is correct.

Mr. Lewis: How soon after the hearing did the decision come out?

Mr. MacDougall: The Board held hearings in the two cases on February 19 and 20. Our news release went out on February 26. Our letters to the parties were sent out at the end of the previous week. I believe they were in the mail on Saturday.

Mr. Lewis: When there is no vote, is it unusual for the Board to make a decision within a few days of the hearing?

Mr. MacDougall: Not at all; the Board usually acts with dispatch. I have information that the Board met, for example, on November 21 and 22 of 1967. It had six applications for certification before it for initial consideration. In one of those applications the Board deferred its decision to permit a study of the transcript of evidence, and rendered an immediate decision in five other cases. In the month of December, 1967, the Board met on the 12th and 13th. Five applications for certification were placed before it for initial consideration. It made a determination in four of

those cases and it ordered a vote in the fifth. I might add that it made a final decision in the case which it deferred at its November meeting by rejecting the application as premature. The Board met on January 22 and 23 of 1968. At these sittings it had five applications for certification before it for initial consideration and it made an immediate decision to grant certification in all five cases. When I say immediate I mean in closed session, either later the same day or the following day.

• 1030

The Board met again on February 19, 20 and 21, at which sessions the cases you have just been asking about were heard. It had eight cases before it for initial consideration and it made final determination in all eight cases except that in one application, that is the application of the Canadian Union of Public Employees, it reserved its decision as to whether one particular job classification should be included or excluded from the appropriate unit; and that is the group of set designers to whom I have referred earlier.

That is a limited examination of our recent history. A record over a longer period of time might show a larger proportion of deferrals than the samples I have given you. I had not anticipated very much questioning on this but I thought it might arise and I looked at the records for several months back.

Mr. Lewis: To summarize, then, I would say from my own personal experience before the Board and with the office with which I am associated that in cases where the Board decides that no vote is required, in the overwhelming majority of those cases the decision comes within hours sometimes, and within days sometimes.

Mr. MacDougall: Yes, that is so. The lapse of days usually is not the result of the Board's delaying its action but simply that the staff of the Board is left with quite a number of decisions to process, certificates to prepare or rejections, and the paper work involves a lapse of some days.

Mr. Lewis: Of course, whether there is a vote ordered depends on the nature of the bargaining unit as to whether it takes a week or a month or sometimes longer.

Mr. MacDougall: It may take several months to get a payroll for a vote on a railway across country. A vote may be taken in two weeks or three weeks and so on. The reasons of the Board for deferring decision

might be summarized as a desire of the Board to study the transcript where conflicting evidence has been given and the Board has to waive that evidence and needs to study the records before doing so; or a desire for further information from the parties; a desire perhaps for counsel to put in written submissions if they are finished up at the end of a long day. If they have finished their evidence and do not want to remain overnight then counsel often are glad to submit written argument at a later date.

Mr. Lewis: That is right. The hearing is not really finished until you have the written argument.

I have almost finished, Mr. Chairman.

Did you see a criticism, to put it mildly, of the Board and particularly of the Chairman of the Board, by the President of the CNTU after the issuing of the certificate?

Mr. MacDougall: I have been busy preparing for meetings of the Board and have not read all the minutes of proceedings and evidence of this Committee. I know that there was some criticism but only...

Mr. Lewis: If you have not seen it, I will not say any more.

Mr. MacDougall: I simply saw a newspaper headline.

[Translation]

The Chairman: Mr. Clermont, you have the floor.

Mr. Clermont: Mr. MacDougall, the CLRB is composed of a Chairman, four representatives of the employers, four representatives of the employees...

Mr. Lewis: ... and a Vice-Chairman.

Mr. Clermont: ... and a Vice-Chairman.

Mr. MacDougall: Yes.

Mr. Clermont: Has it ever happened, Mr. MacDougall, that all of the ten members have been present to hear a request?

[English]

Mr. MacDougall: May I hear the question again?

• 1035

[Translation]

Mr. Clermont: Mr. MacDougall, I believe that the CLRB is composed of ten members.

Mr. MacDougall: Yes.

Mr. Clermont: Since the establishment of the Board, from 1948 to November 1967, has it ever happened that all of its members sat together to hear a request for certification?

[English]

Mr. MacDougall: Never, because the Vice-Chairman does not sit simultaneously with the Chairman. He presides in the necessary absence of the Chairman.

[Translation]

Mr. Clermont: In a document which you presented, Mr. MacDougall, I notice that the nine members sat together for only one or two hearings. What is the necessary quorum for the Board?

[English]

Mr. MacDougall: The quorum is three, with the proviso that there must be a presiding officer, one representative of employers and one representative of employees.

[Translation]

Mr. Clermont: Mr. MacDougall, I believe that the Board's discussions are simultaneously translated.

[English]

Mr. MacDougall: You are referring to this last one? Yes, there was.

[Translation]

Mr. Clermont: For how long has the Board had the benefit of simultaneous translation?

[English]

Mr. MacDougall: A year and a half to two years.

[Translation]

Mr. Clermont: In fact, since 1965 or later.

Mr. MacDougall: Yes, yes.

Mr. Clermont: Previously, the discussions were only...

[English]

Mr. MacDougall: Since 1966.

[Translation]

Mr. Clermont: Prior to 1966, Mr. MacDougall, were the discussions carried on only in English?

[English]

Mr. MacDougall: No, no. We provided translation services but the translation was con-

secutive. A witness would give evidence in one language. If he was being questioned in English and understood French, then a translator would make the translation. He would receive an answer in the witness' language and would translate into English. It was a consecutive translation and was slow and cumbersome, and we are very much happier now with the simultaneous translation.

[Translation]

Mr. Clermont: The existence of such a system no doubt prolonged the discussions of the Board. Could this perhaps be one of the reasons which promoted the advent of simultaneous interpretation? The system of which you were speaking undoubtedly prolonged the discussions.

[English]

Mr. MacDougall: Time was not so much a factor as the desire to be of service to all parties. For a number of years we did not have a great many bilingual cases coming to the Board as this record shows. I am referring now to the table on regional bargaining units. When we were seized with more and more applications with a bilingual aspect, it was a natural and very desirable development that we should go to simultaneous translation. We hope we can make other improvements as we go along also.

• 1040

[Translation]

Mr. Clermont: Mr. MacDougall, in reading your chart: CANADA LABOUR RELATIONS BOARD, "disposition of 59 "Regional" Cases", I notice in subdivision (e): CNTU vs. CLC, that of 7 cases presented, 4 were rejected and 3 withdrawn.

And then, under the heading "Applications to Fragment Established Unit", CNTU vs. CLC, there were again 7 cases; none were granted, 4 were rejected and 3 withdrawn.

[English]

Mr. MacDougall: Yes. Those are the same. The breakdown you have just given relates to the same cases in subsection (e) above, and under questioning by Mr. Lewis I identified the cases involved.

[Translation]

Mr. Clermont: This is what is intriguing me. In another table, under "Applications for Certifications", it seems that, in the cases involving the CNTU and the CLC, certain

certifications were granted. In the other document, I see nothing of this kind, although the two unions were in conflict.

The Chairman: Are you referring to these two?

[English]

Mr. Clermont: Yes.

The Chairman: The grounds, of course, are broader under this, as I understand it.

Mr. Clermont: Mr. Chairman, one paper shows 59 regional cases and the other shows 61.

Mr. MacDougall: They are entirely separate computations. There is some overlapping, but one involves regional units. In the case of these 61 applications the CLC and the CNTU affiliate could be involved in applying for a single radio station, which would not show in our table of regional applications. They were in direct conflict, and you will see in paragraph 3 of the conflict cases that there is an analysis of reasons for rejection.

• 1045

I have been unable to find the material which showed the percentages, but as shown on the chart where the CLC or the CNTU affiliated organizations were directly opposed, of 28 applications the CLC was granted only 4, and of 33 applications made by the CNTU 18 were granted. I regret I do not have the other percentages to which I referred, because they are rather startling.

Mr. Clermont: Mr. Chairman, may I ask Mr. MacDougall a question? Mr. MacDougall, when were these documents made available to the Committee?

Mr. MacDougall: I had them with me at the last meeting, at which time I hoped to present them but no one asked for them.

Mr. Clermont: Mr. Chairman, I am rather puzzled why they were not distributed before this morning. They represent a lot of work, but how can we appreciate the importance of these documents when we are not very familiar with the work of that body?

Mr. MacDougall: I agree.

Mr. Clermont: It is very easy for a person like Mr. Lewis, who is familiar with the operation of that body, to understand these documents, but for people who are not familiar it is not so easy.

Mr. MacDougall: I must qualify my last statement. Two of these tables were prepared as the result of Mr. Lewis' direct request for an analysis of the regional cases concerning which I previously gave testimony. He also wanted to know the members present at each of those cases and the dissent if any. The table and the the supplementary table analysing the disposition of these cases was just prepared within the last week or so.

Mr. Clermont: Mr. MacDougall, my colleague from Levis—Mr. Duquet—asked for some information at the first meeting when the Minister was before this Committee. I do not want to criticize anybody, Mr. Chairman, but I think it would have been much easier, for some members at least, if these papers had been delivered before this morning because considerable reading is necessary in order to understand them. However, I have a few more questions, Mr. Chairman.

[Translation]

Mr. MacDougall, when a certain number of the employees of the Banque Canadienne Nationale, representing three groups of employees: (a), (b) and (c), that is to say 116 employees, presented a request for certification, was their request refused by the CLRB because the number of employees appeared to be insufficient and because those who presented the request could not be classified as having a distinct occupation? Did you then have the total number of employees of the Banque Canadienne Nationale?

Mr. MacDougall: I have distributed the complete record, including the Board's reasons for judgment, in the Banque Canadienne Nationale case.

[English]

Mr. Clermont: I read the reasons for the rejection of the application but I did not see any figures which showed the total staff of the Banque Canadienne Nationale.

• 1050

Mr. MacDougall: It is mentioned at the top of page 3 of the reasons for judgment.

Mr. Clermont: Oh yes, 4,300 employees.

Mr. MacDougall: Its banking operations, not including the management group, had some 203 employees listed as working full time on clearing operations. This listing included not only employees of the Montreal and Quebec offices specified in the proposed unit which only took in three locations, but also employees of a considerable number of its other larger bank offices located both

within and without the Province of Quebec. This bank had people engaged in clearing in St. Boniface, Manitoba, and so on. They were seeking certification for a very limited group of IBM machine operators who were only doing a part of the clearing of cheques and invoices, and in the Board's view they had not applied for an appropriate bargaining unit that would be a viable and workable bargaining unit which would succeed in benefiting not only the employees, but the enterprise as well.

[Translation]

Mr. Clermont: Mr. MacDougall, in the fall of 1966, a request for certification was presented to the CLRB by a group of employees of the Montreal City and District Savings Bank. This request was accepted by the Board. Was the request made to group all the employees of the Montreal City and District Savings Bank or only some of them? If so, what percentage of the total number of employees of this bank was affected by this request?

[English]

Mr. MacDougall: It took in all branches of the bank—all the clerical employees, the tellers and even the bank inspectors and senior accountants. The Board saw fit to exclude, because they were management, some of the senior accountants and bank inspectors, but aside from a small number of people of that kind the Board granted certification for every one who applied for it.

Mr. Lewis: And they included all their branches in the Province of Quebec?

Mr. MacDougall: All the branches in the province.

[Translation]

Mr. Clermont: That is why, Mr. Lewis, I wanted to make my question clearer. In fact, the Montreal City and District Savings Bank operates only in the city of Montreal, I believe.

[English]

Mr. Lewis: Only in the city of Montreal.

Mr. MacDougall: In greater Montreal.

[Translation]

Mr. Clermont: Let us say on the island of Montreal or on Hochelaga island.

[English]

Mr. MacDougall: Yes.

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[Translation]

Mr. Clermont: That is all, Mr. Chairman.

[English]

Mr. MacEwan: Mr. MacDougall, I may be going over some of the ground that was covered when you appeared before the Committee earlier, but is it correct in a number of cases before the CLRB that CLC appointees have voted for CNTU applications, and vice versa?

Mr. MacDougall: Definitely.

Mr. MacEwan: Among those cases were there, to your knowledge, any in which the matter before the Board was the certification of a bargaining unit?

Mr. MacDougall: Yes, always.

Mr. MacEwan: I see. On page 66 of the evidence which you...

Mr. MacDougall: Did I understand you correctly? Did all our certification cases involve the certification of a bargaining unit?

Mr. MacEwan: Right.

Mr. MacDougall: Even where an issue was raised about the appropriateness or the fragmentation?

Mr. MacEwan: Yes.

Mr. MacDougall: I am unable to give any information as particularized as that.

Mr. MacEwan: The reason I brought this up is that on page 66 of the evidence for February 12 Mr. Marchand is reported as having asked:

Just to clarify one point, did it happen once in the past that in a dispute concerning the definition of a bargaining unit you had a CLC representative voting with the CNTU?

● 1055

He continued on page 67:

Voting for a petition of the CNTU and concerning the definition of the bargaining unit when the definition of the bargaining unit was at stake?

You said that you would not be surprised if this had happened. Do you know for sure? Have you been able to look into this?

Mr. MacDougall: No. I am probably at fault for not having done so. I can only plead that

I have been very busy looking after the Board's duties.

Mr. MacEwan: But do you think this has happened?

Mr. MacDougall: I said before that I would not be surprised if it had happened. I cannot go much beyond that.

Mr. MacEwan: That is fine. On page 66 Mr. McCleave asked you about CLC and CNTU applications, and so on. You pointed out that 62 per cent of the applications filed by CLC affiliates and 61 per cent of the applications for certification by the CNTU had been granted. Can you give more particulars on that? What period of time was involved?

Mr. MacDougall: During the period from September 1, 1948, to November 30, 1967, the affiliates of the Canadian Labour Congress filed a total of 1,306 applications of which 806 were granted, 235 were rejected and 257 were withdrawn. In the same period, 1948 to the end of November, 1967, CNTU filed 70 applications for certification of which 43 were granted, 18 were rejected and 9 were withdrawn. Independent trade unions and others filed a total of 648 applications—639 excluding those pending. There were 319 granted, 180 were rejected and 140 were withdrawn. The figure of 1,306 that I mentioned for the CLC included 8 that were pending. The net figure to reconcile those granted, rejected and withdrawn should be 1,298. Is this what you had in mind?

Mr. MacEwan: Yes, that is fine. Thank you very much. That is all I have, Mr. Chairman.

The Chairman: Gentlemen, that concludes my list of names. Are there any further ques-

tions? Mr. MacDougall and gentlemen, thank you very much.

Mr. MacDougall: It was a pleasure, sir.

The Chairman: That concludes the list of witnesses.

• 1100

Mr. Lewis: We had heard that a Miss Lorentsen, I think, was to appear. Is she not appearing today?

The Chairman: She is ill, but we can...

Mr. Lewis: It depends on what she would have to tell us, which perhaps would be nothing important enough to worry her about.

The Chairman: Yes, the general impression is that she would not contribute any new information.

Mr. MacDougall: I would like to answer Mr. Lewis. He asked a question about the Lemelin Autobus Limited. It was not read into the record. I had this prepared in mid-February.

The Chairman: As a letter to Mr. Measures.

Mr. MacDougall: Yes, and it was held up. Perhaps this should go into the record? There was really no scope for issue. There was not very much involved except a vote in the CBRT bloc.

The Chairman: There are no further witnesses, so this will conclude the meetings of this Committee. Our next meeting is tentatively scheduled for sometime next week, if we are still around, to consider the interesting prospects of a report.

As there is no further business before us, I declare the Committee adjourned.

APPENDIX XX

CANADA LABOUR RELATIONS BOARD

Applications for Certification for (a) regional bargaining units and (b) in selected cases for plant units that would fragment existing units. Group (a) includes applications for regional units regardless of whether there was an incumbent bargaining agent. (Table covers the period from September 1, 1948 to November 30, 1967.)

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-6	(1) Smith Transport Ltd. (2) Teamsters Local 106 (3) Nil	No. (Teamster Local 938 had been certified previously by Ontario L.R. Board for employees at 13 locations in Ontario).	Certification granted for a unit of designated classifications employed in the Province of Quebec.	A. H. Brown, W. L. Best, E. R. Compnin, A. Deschamps, A. R. Mosher, G. Picard.	Nil.
7-66-34	(1) Canadian Pacific Air Lines (2) Brotherhood of Railway & Steamship Clerks (3) Nil	No. (Company contested scope in view of similar classifications employed elsewhere. The case involved clerical employees employed only in accounting offices at Montreal and Edmonton, not then represented. Employees at Winnipeg and Vancouver not applied for).	Board granted separate certificates for employees at Montreal and Edmonton.	A. H. Brown, W. L. Best, A. Deschamps, J. A. D'Aoust, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Nil.
7-66-45	(1) Eastern Canadian Greyhound Lines Ltd. (2) Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Div. 1415 (3) Nil	No. (As amended, application covered employees of company in its Southern Ontario Division, including its Sudbury or "Northern" Division).	Certification granted for bus drivers employed by company in its Southern Ontario Division.	A. H. Brown, W. L. Best, E. R. Compnin, J. A. D'Aoust, A. Deschamps, A. Mosher.	Nil.
7-66-53	(1) Canadian National Railways (2) Railway Brotherhood of Employees and Other Transport Workers (3) Nil	No. (Application covered employees classified as diver, driver's tender, and helper employed in Cape Tormentine-Borden area).	Application withdrawn.	N/A.	N/A.
7-66-102	(1) Canadian Pacific Railway Co. (2) B.R.S.C. (3) Nil	No. (Application covered clerical employees under district accountant employed at Windsor St. Station (Montreal), Glen Yards, Outremont, Hochelaga, Farnham, Ottawa, Quebec City and Sherbrooke).	Certification granted as applied for.	A. H. Brown, W. L. Best, A. Deschamps, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Mr. Taylor abstained, not having participated when the Board earlier decided on the appropriate unit and ordered a vote.
7-66-104	(1) Canadian Pacific Railway Co. (2) Bro. of Maintenance of Way Employees (3) Nil	No. (Application covered employees in designated classifications employed in shops at Saint John, N.B., Montreal, P.Q., Toronto and North Bay, Ont., not then covered by agreement).	Certification granted.	A. H. Brown, W. L. Best, A. Deschamps, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Nil.

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-136	(1) C.P.R. (2) B.R.S.C. (3) Nil	No. (Application covered clerical employees in office of district accountant, Union Station, Toronto, and all clerical employees under same officer at West Toronto, John Street and Lampton (all in Toronto) and at London, Ont.).	Certification granted on area basis as applied for.	A. H. Brown, W. L. Best, A. J. Hills, A. R. Mosher.	Nil.
7-66-181	(1) C.P.R. (2) Bro. of Locomotive Firemen and Enginemen (3) Bro. of Locomotive Engineers	Yes. (Board's Reasons for Judgment stated application covering locomotive engineers employed by C.P.R. in its Prairie and Pacific Regions in effect sought to divide craft unit which wartime Board in 1946 found appropriate into two territorial units of same craft).	Board rejected application stating applicant had not satisfied Board that the existing craft unit should be subdivided on a territorial basis.	A. H. Brown, W. L. Best, E. R. Compkin, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Mr. W. L. Best dissented for abstained (not having been present at the hearing).
7-66-186	(1) C.N.R. (2) Bro. of Locomotive Engineers (3) Bro. of Locomotive Firemen and Enginemen	Yes as regards composition of proposed unit; but not its geographic scope. The proposed unit consisted of locomotive engineers and hostlers; whereas the existing agreement held by the intervenor covered locomotive engineers, firemen, helpers, hostlers and hostlers' helpers.	Following vote taken of locomotive engineers only, with names of applicant and intervenor (the incumbent) on ballot, application rejected because not supported by a majority of the employees affected.	A. H. Brown, W. L. Best, E. R. Compkin, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Nil.
7-66-194	(1) C.N.R. (2) Bro. of Locomotive Firemen and Enginemen (3) Bro. of Locomotive Engineers	No.	Following a vote with the names of both unions on the ballot, certification was granted for a unit of locomotive engineers in the Nfld. District of the C.N.R., Atlantic Region.	A. H. Brown, W. L. Best, E. R. Compkin, A. J. Hills, A. R. Mosher, G. Picard, H. Taylor.	Messrs. Mosher and Taylor dissented.
7-66-195	(1) C.N.R. (2) Bro. of Locomotive Firemen and Enginemen (3) Bro. of Locomotive Engineers	No.	Certification granted (after intervention withdrawn at hearing) for a unit of locomotive firemen, helpers, hostlers, and hostlers' helpers employed in the Nfld. District of the C.N.R. Atlantic Region.	A. H. Brown, W. L. Best, E. R. Compkin, J. A. D'Aoust, A. J. Hills, A. R. Mosher, G. Picard.	Nil.
7-66-323	(1) C.N.R. (2) C.B. of R.T. & O.T.W. (3) Nil	No. (Application affected extra gang timekeepers employed at various points on C.N.R. Atlantic Region).	Withdrawn.	N/A.	N/A.
7-66-359	(1) C.N.R. (2) C.B. of R.T. & O.T.W. (3) Nil	No. However, the C.N.R. raised the issue that the proposed bargaining unit comprising extra gang timekeepers employed on certain designated divisions of the Atlantic Region disregarded extra gang timekeepers employed in Newfoundland.	The Board was of opinion that in the circumstances the proposed unit was appropriate, and granted certification covering six divisions of the Atlantic Region, not including Newfoundland.	A. H. Brown, A. J. Hills, A. R. Mosher, G. Picard.	Nil.

7-66-361	(1) C.P.R. (2) Order of Railway Conductors of America (3) Bro. of Railroad Trainmen	Not as to scope. The application covered road train conductors employed on the Prairie and Pacific Regions of the C.P.R. The intervenor had been certified in 1947 for road train conductors on C.P.R. Western Lines. Intervener's agreement included other classifications not affected, viz, baggage men, yardmen and switch-tenders on the Prairie and Pacific Regions. However B. of R.T. argued in favour of system-wide unit of road train conductors in its reply.	Rejected for the reason that the applicant did not have the support of a majority of the employees affected.	Nil.	A. H. Brown, A. J. Hills, E. R. Complin, A. R. Mosher, W. L. Best, H. Taylor, J. A. D'Aoust, A. C. Ross.
7-66-414	(1) C.N.R. (2) B. of R.T. (3) O.R.C. of America	No. The application covered conductors and assistant conductors (except sleeping car conductors) employed in passenger and freight train service on the C.N.R. Atlantic and Central Regions (except the Nfld. District). The intervenor held a collective agreement for such classifications on the territory affected by the application.	Following a vote, certification was granted for the unit applied for.	Nil.	C. R. Smith, W. L. Best, E. R. Complin, J. A. D'Aoust, A. J. Hills, A. R. Mosher, G. Picard, A. C. Ross, H. Taylor.
7-66-415	(1) C.N.R. (2) B. of R.T. (3) Order of Railway Conductors	No. The application covered conductors and assistant conductors (except sleeping car conductors) employed in passenger and freight train service on the Western Region of the C.N.R., where the intervenor held a collective agreement.	Following a vote, certification was granted for the unit applied for.	Nil.	C. R. Smith, W. L. Best, E. R. Complin, J. A. D'Aoust, A. J. Hills, A. R. Mosher, G. Picard, A. C. Ross, H. Taylor.
7-66-470	(1) The Bell Telephone Company of Canada (2) Eastern Townships Telephone Union (Le Syndicat national des Téléphonistes des Cantons de l'Est) (CNTU)—then (CTCC). (3) The Traffic Employees' Association.	The employer which had as of December 31, 1955, purchased the assets of The Eastern Townships Telephone Company denied that the 100 telephone operators and supervisors applied for comprised a unit appropriate for collective bargaining, having become covered and bound by the agreement in force between the company and the Traffic Employees' Association. It submitted that all traffic employees including telephone operators and supervisors for Ontario and Quebec formed a single unit and that intervenor represented as such by the intervenor. (The intervenor made substantially the same submission opposing the application.)	The Board granted the applicant an extension of time within which to locate membership records (reported to have been lost by reason of a change of business agent); and later allowed the applicant to withdraw the application.	Nil.	C. R. Smith, W. L. Best, J. A. D'Aoust, A. J. Hills, A. R. Mosher, A. C. Ross.
7-66-483	(1) C.N.R. (2) C.B. of R.E. & O.T.W. (3) Nil	No. The application covered red caps employed at "various stations" on the Atlantic Region (excluding Nfld. District). C.N.R. contested on ground proposed unit was too broad and might include employees not consulted and not desiring union representation.	Certification granted for red caps employed on Atlantic Region at Moncton, Saint John, Truro and Halifax.	Nil.	C. R. Smith, W. L. Best, E. R. Complin, A. J. Hills, A. R. Mosher, A. C. Ross.
7-66-484	(1) C.P.R. (2) Order of Railroad Telegraphers, System Division No. 7 (3) Nil	No.	Certification granted for a unit of caretaker agents employed on C.P.R. Eastern Region.	Nil.	C. R. Smith, W. L. Best, E. R. Complin, A. C. Ross, A. J. Hills, A. R. Mosher.

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-518	(1) The Bell Telephone Company of Canada (2) Saguenay and Lake St. John Telephone Employees' National Syndicate (CCCL) (3) Syndicat national des Employés du Téléphone du Saguenay et du Lac Saint-Jean (4) Canadian Telephone Employees Association (5) Traffic Employees' Association	The application covered all Bell employees in Chicoutimi, Fort Alfred, Alma, Hébertville Station, St-Fidèle, Dolbeau, Roberval, and St. Jérôme comprising men working on patrol, cables and construction, and at exchanges, the employees of stores, buildings and vehicles, female supervisors, instructors and operators. The company and interveners agreed that the employees the applicant sought to represent were represented by C.T.E.A. and T.E.A. under earlier certification orders granted by the Board. A company representative stated that as of March 1, 1955, la Compagnie du Téléphone Saguenay-Quebec went out of business, and that the former collective agreement was not relevant.	In compliance with a request by the applicant dated April 22, 1955, (stating that having examined the replies of the company and the two unions already certified, and having taken certain new facts into consideration), the Board granted permission to withdraw the application.	N/A.	N/A.
7-66-519	(1) Smith Transport Limited (2) Teamsters Local 106 (3) Nil	No. However, the company contested the application on the ground that the employees affected (maintenance, garage and terminal service employees throughout Quebec) were working within the limits of the Province of Quebec, and claimed the Board should decline jurisdiction.	The Board granted the applicant's request to withdraw the application.	N/A.	N/A.
7-66-534	(1) C.N.R. (2) C.B. of R.E. & O.T.W. (3) Nil	No.	Certification granted for a unit of red caps and red cap captains employed by C.N.R. at Winnipeg, Saskatoon, Edmonton and Vancouver.	C. R. Smith, W. L. Best, A. J. Hills, A. R. Mosher, A. C. Ross.	Nil.
7-66-618	(1) C.P.R. (2) Order of Railway Conductors and Brakemen (3) Bro. of Railroad Trainmen	No. The application covered conductors engaged in freight and passenger road train service employed on the Eastern Region of the C.P.R.	Withdrawn.	N/A.	N/A.
7-66-619	(1) C.P.R. (2) Order of Railway Conductors and Brakemen (3) Bro. of Railroad Trainmen	No. The application covered train baggagemen and brakemen employed on the Eastern Region of the C.P.R.	Withdrawn.	N/A.	N/A.
7-66-653	(1) Patricia Transportation Co. Ltd. (2) Teamsters Local 979 (Winnipeg) (3) C.B. of R.E. & O.T.W.	Yes. The application covered all employees working in or out of the company's Winnipeg terminal, excluding foremen and office staff. The intervener raised the question that it was certified and held a collective agreement covering employees of the company employed at Winnipeg, Man., and various locations in Ontario, in a larger number of designated classifications.	The Board granted withdrawal.	N/A.	N/A.

7-66-654	(1) Patricia Transportation Co. Ltd. (2) Teamsters Local 990 (Port Arthur) (3) C.B. of R.E. & O.T.W.	Yes. The application covered all employees of the respondent working in or out of Kenora, Red Lake Road, Red Lake, Dryden, and Port Arthur, Ont., excluding terminal agents. The intervener raised the question that it was certified and held a collective agreement covering employees of the company employed at Winnipeg, Man., and various locations in Ontario, in a larger number of designated classifications.	The Board granted permission to withdraw.	N/A.	N/A.
7-66-753	(1) Soo-Security Freight Lines Ltd. (2) Teamsters Local 979 (3) Nil	No. The application covered employees of the company employed in terminals located at Regina, Estivan, Weyburn, Moose Jaw, North Portal, Swift Current and Saskatoon, all in Saskatchewan. There was no existing bargaining unit to be fragmented. However the company contested the appropriateness of the proposed unit because it did not include employees at or working out of terminals at Maple Creek, Sask., Medicine Hat, Lethbridge, Calgary and Edmonton, Alta. (which terminals were a necessary part of its operations in the Provinces of Saskatchewan, Alberta and Manitoba).	The Board permitted withdrawal.	N/A.	N/A.
7-66-825	(1) John Kron & Son Ltd. (2) Teamsters Local 979 (3) Nil	Debatable. The application covered all of the employees at its Winnipeg terminals, including highway drivers operating Winnipeg to Dryden, Ont., and return, and Winnipeg to Port Arthur, and return. Earlier, when the company's operations were entirely intraprovincial, the Ontario Board certified Teamsters Local 990 for three separate units of employees located at (a) Port Arthur, (b) Kenora, and (c) Dryden and Sioux Lookout. Employees of the company at Red Lake and Red Lake Road classified as agent, driver and helper remained unorganized and not covered by this application. The company did not contest the application.	The Board, in the special circumstances of the case, found the bargaining unit applied for to be appropriate for the reason that employees in like classifications employed at three of five places in Ontario were represented for collective bargaining purposes by another local of the same parent union, such bargaining rights having followed from certification granted O.L.R.B. at times when the operations of the company were wholly within Ontario. Certification was granted.	Nil.	C. R. Smith, A. H. Balch, E. R. Complin, J. A. D. Acoust, A. I. Hills, A. R. Mosher, C. P. Ford, A. C. Ross.
7-66-892	(1) Smith Transport Limited (2) Teamsters Local 106 (3) Nil	No; there was no existing collective agreement. The application proposed to cover employees of the company comprising city pick-up drivers, transport drivers, dockmen, warehousemen, clerks, mechanics and helpers employed in the Provinces of N.S. and N.B. in branches situated in certain designated localities. The company contested, stating that the employees in each province should be treated as separate entities; and that consideration should be given to separate certification if the majority of the employees in each province so desired.	The Board determined that the employees of the company employed at branches in the Provinces of N.S. and N.B., as applied for, constituted an appropriate unit, excluding warehouse foremen and dock foremen; and granted certification accordingly.	Nil.	C. R. Smith, A. H. Balch, E. R. Complin, A. I. Hills, A. R. Mosher, A. C. Ross, H. Taylor.

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-896	(1) C.N.R. (2) Bro. of Locomotive Engineers (3) Bro. of Locomotive Firemen and Enginemen	No fragmentation as to the area involved; but the application covered locomotive engineers employed on the Nfld. District of the C.N.R. Atlantic Region, and the intervenor held a collective agreement for the said District covering locomotive engineers, firemen, helpers, hostlers and hostlers' helpers. Neither the company nor the intervenor contested on the issue of scope. There was disagreement only as to the formula to be used for voting purposes, and the question of a majority.	Following a vote the application was rejected as not being supported by a majority of the employees affected.	C. R. Smith, E. R. Compin, J. A. D'Aoust, A. J. Hills, A. R. Mosher, G. Picard H. Taylor.	Nil.
7-66-1001	(1) The St. Lawrence Seaway Authority (2) S.I.U. of North America, Canadian District (3) C.B. of R.T. & G.W.	No; there was no existing bargaining unit. The application covered employees of the Authority employed in various classifications in the area of the Beauharnois Locks. The employer submitted that the appropriate unit should have regard to the necessity of operating the Seaway as a whole and of providing interchangeability of personnel. A similar contestation was made by the intervenor.	During a hearing the applicant requested permission to withdraw this application (or an unprocessed application affecting employees on the St. Catharines Locks with a view to filing a new application for a system-wide unit jointly with the Dominion Canals Employees' Association). The Board granted permission to withdraw.	C. R. Smith, A. H. Balch, E. R. Compin, J. A. D'Aoust, A. J. Hills, A. C. Ross.	Nil.
7-66-1002	(1) The St. Lawrence Seaway Authority (2) Dominion Canals Employees' Association (3) C.B. of R.T. & G.W. (4) S.I.U. of North America, Canadian District	No; there was no existing bargaining unit. This application covered Seaway Authority employees located at Sault Ste. Marie, Welland and Iroquois Canals. The Seaway Authority contested (see case 1001 above). The C.B. of R.T. & G.W. also claimed the unit should be system-wide.	During a hearing the applicant requested permission to withdraw this application (with a view to filing a new application for a system-wide unit jointly with the S.I.U. of N.A., Canadian District). The Board granted permission to withdraw.	C. R. Smith, A. H. Balch, E. R. Compin, J. A. D'Aoust, A. J. Hills, A. C. Ross	Nil.
7-66-1008	(1) The St. Lawrence Seaway Authority (2) Civil Service Association of Canada (Cornwall Local Council) (3) C.B. of R.T. & G.W. (4) S.I.U. of North America, Canadian District	No; there was no existing bargaining unit. The employer and C.B. of R.T. & G.W. contested the scope of the application which was restricted to maintenance and operating employees employed on the Cornwall Canal.	Withdrawal permitted.	N/A.	N/A.
7-66-1102	(1) C.P.R. (2) International Association of Machinists (3) B.R.S.C.	The application covered garage employees employed by C.P.R. in its Merchandise Services Department, employed in British Columbia, specifically at Vancouver and Victoria; and the C.P.R. contested claiming that where similar workers were employed at other locations	Rejected for the reason that the unit applied for was not separately appropriate for collective bargaining, being only part of a much larger unit of employees engaged in similar operations of the company, who are for the most part already represented by the B.R.S.C.	C. R. Smith, A. H. Balch, A. J. Hills, Donald MacDonald, H. Taylor	Nil.

on the C.P.R. they are represented in the same bargaining unit as all other workers engaged in handling less-than-carload traffic, and by the same bargaining agent; and that the garage mechanics affected were not separately appropriate for collective bargaining. The B.R.S.C. contended that it had held an agreement with the Express Department of the C.P.R. for many years covering the classes of employees affected; and also had a system agreement with the company covering freight handling operations, of which this new Merchandise Services Department had become an integral part.

- (1) Shell Canadian Tankers Ltd.
- (2) C.B. of R.T. & G.W.
- (3) S.I.U., Canadian District

7-66-1125

Nil.

Following a vote of unlicensed employees employed aboard the "Tyee Shell" the Board granted certification.

- A. H. Brown,
- A. H. Balch,
- E. R. Complin,
- A. J. Hills,
- Donald MacDonald,
- A. C. Ross.

In question. The application covered unlicensed employees of the M.V. "Tyee Shell", a deepsea tanker which was transferred by the respondent in 1959 from service on the Great Lakes to coastal operations in British Columbia (where in January, 1960, it was placed under time charter to the Pacific Tanker Company). Pay cheques continued to be issued in the name of the respondent. On the West Coast the company already had in operation the M.V. "Western Shell" for the unlicensed employees of which the S.I.U. was the bargaining agent. Respondent did not oppose the application but asked that the description of the bargaining unit be enlarged by adding the words "so long only as this vessel is used by the employer in trade on the West Coast of the North American continent exclusively". The Board found in the circumstances the appropriate bargaining units comprised the employees of each of the vessels affected.

- (1) Shell Canadian Tankers Ltd.
- (2) S.I.U., Canadian District
- (3) C.B. of R.T. & G.W.

7-66-1126

Nil.

The Board rejected S.I.U. application finding that, in the circumstances of these cases, employees of each of the vessels separately constitute appropriate bargaining units; that the S.I.U. is the existing bargaining agent for unlicensed personnel aboard the "Western Shell"; and that in a vote conducted by the Board a majority of unlicensed crew members of "Tyee Shell" voted against representation by the S.I.U.

- A. H. Brown,
- A. H. Balch,
- E. R. Complin,
- A. J. Hills,
- Donald MacDonald,
- A. C. Ross.

No. The application covered in a single proposed unit the unlicensed employees of the M.V. "Tyee Shell" (see above) and the M.V. "Western Shell". At the time the S.I.U. held separate collective agreements covering employees aboard the two vessels. Respondent claimed certification should apply to its vessels individually; that the "Tyee Shell" could be used in international trade under different operating conditions from the coastal tanker "Western Shell".

File	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-1135	<p>(1) Employer (2) Applicant (3) Intervener(s)</p> <p>(1) C.P.R. (2) Teamsters Locals 31 and 885 (3) B.R.S.C. (4) C.B. of R.T. & C.W. (5) O.R.T.</p> <p>In question. The proposed unit covered employees of C.P.R. in its Merchandise Services at seven specified locations in British Columbia "or elsewhere in Canada", in various job classifications involving driving and warehousing functions. C.P.R. claimed proposed unit not appropriate; that it was in process of reorganizing freight handling facilities; that orderly collective bargaining could not be carried on if employees handling such traffic were broken into separate and different groups.</p>	<p>Board rejected application finding that the unit applied for was not appropriate for collective bargaining. (In Reasons for Judgment adopted later Board stated it was inclined to agree that a system-wide unit of employees of Merchandise Services might be an appropriate unit, but that was not the situation at the time, Merchandise Services Department having been organized only in B.C., and not even in the whole of that Province.) It considered a unit limited to the locations where Merchandise Services was then organized would not be an appropriate unit; and in the circumstances of this case it would be pre-mature to certify a bargaining agent for Merchandise Services as a whole, as such certification could only be based on the relatively small number of employees presently employed.</p>	<p>C. R. Smith, A. H. Balch, E. R. Complin, A. J. Hills, Donald MacDonald, A. C. Ross.</p>	Nil.
7-66-1234	<p>(1) M. & P. Transport Limited (2) Association of Employees of M. & P. Transport (3) Teamsters Locals 938 and 880</p> <p>No; but scope was in question. The company did not oppose the application, and there was no existing collective agreement covering the employees in the proposed unit. The application covered all long haul drivers operating from or based in Alberta; all short haul drivers resident and operating within Alberta; and all employees employed as dockmen and pike-up men within Alberta. All long haul drivers of the company were based at Edmonton. The interveners alleged, inter alia, that in Ontario, where the company operated terminals at Hamilton and Windsor, with a terminal and maintenance shop at Toronto, the company as a member of the Automobile Transport Association of Ontario was a party to a collective agreement with the Teamsters covering its Ontario terminals and short haul drivers and dockmen in that province (but not mechanics and allied groups).</p>	<p>Certification was granted following a hearing for a unit of M. & P. employees classified as long haul driver, city driver, and dockman based at or operating in and out of Edmonton, and dockman or pick-up man based at Calgary.</p>	<p>C. R. Smith, A. H. Balch, E. R. Complin, A. J. Hills, Donald MacDonald, A. C. Ross</p>	Nil.
7-66-1242	<p>(1) Vancouver Alberta Freight Lines Ltd. (2) Teamsters Locals 605 and 514 (3) Nil</p> <p>There was no existing collective bargaining agent, but the company opposed the scope of the proposed unit covering employees at its Vancouver and Edmonton terminals, stating that in the categories affected it had employees at Vancouver, Edmonton and Calgary.</p>	<p>Board granted permission to withdraw.</p>	<p>N/A.</p>	N/A.

7-66-1311	Interprovincial Lines (1) Gill Ltd. (2) Teamsters Local 605 (3) Nil	No. The application covered employees of respondent in certain classifications based in British Columbia. No question was raised as to the appropriateness of a bargaining unit composed of British Columbia-based drivers among other categories of employees (although Toronto-based employees were covered by an agreement between the respondent and Teamsters Local 938, and two Montreal-based employees were not covered by collective agreement). The main issue involved had to do with the status of owner-drivers.	No. There was no opposition to the proposed unit which consisted of truck drivers employed by C.N.R. in highway service in the Province of Newfoundland.	Nil.
7-66-1321	(1) C.N.R. (2) B.R.S.C. (3) Nil		No. There was no opposition to the proposed unit comprising various classifications on five operational sections of the Ottawa River system, but not including employees in the Temiskaming sections who were represented by a different union.	Nil.
7-66-1349	(1) The Upper Ottawa Improvement Co. (2) International Brotherhood of America (3) Nil		No. There was no opposition to the proposed unit comprising various classifications of bargaining unit to the classifications of agent, relief agent, and other categories exercising train order skills and handling telegraph message traffic in the Nfld. Area.	Nil.
7-66-1419	(1) C.N.R. (2) Order of Railroad Telegraphers, System Div. 85 (3) B.R.S.C. (4) Commercial Telegraphers' Union, Divs. 1 & 43		Certification granted for C.N.R. truck drivers employed in the collection, carriage and delivery of freight and express in highway service in the Province of Newfoundland.	Nil.
7-66-1427	(1) C.N.R. (2) B.R.S.C. (3) O.R.T.		Certification granted for various designated classifications of employees employed in the Nfld. Area. The Board found that it would be appropriate to grant certification for a single unit as this need not interfere with the wishes of the respondent that separate collective agreements continue for the three groups mentioned, such wishes not being opposed by the applicant.	Nil.

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Dissent Recorded
7-66-1443	(1) The Bell Telephone Co. of Canada (2) Office Employees' International Union, Local 57 (3) Nil	No. The union sought certification for Bell employees classified as directory advertising salesmen and saleswomen in the Eastern Region (Quebec, Saguenay, Montreal and Ottawa). The company contested the scope of the application on the ground that there were also 98 employees in the same classifications doing the same type of work in the Western Region, located at and working out of Toronto.	The Board noted that in each previous case affecting the respondent the application for certification was for a system-wide unit. It held that while a system-wide bargaining unit of this sales force might constitute an appropriate unit, it did not consist in the circumstances of this case of a unit applied for in this instance was inappropriate. Certification was granted for the said regional unit.	A. H. Brown, A. H. Balch, E. R. Compin, A. J. Hills, Donald MacDonald, A. C. Koss,	Nil.
7-66-1611	(1) M. & P. Transport Ltd. (2) Teamsters Local 362 (3) Association of Employees of M. & P. Transport Ltd.	No question was raised concerning fragmentation. The application covered various drivers, dockmen and pick-up men operating from or based in Alberta who were covered by an agreement between the Association of Employees of M. & P. Transport Ltd. and the Company covering employees within similar geographic limitations. (The company is licensed as a common carrier throughout Canada and into U.S.A.).	Following a vote with the names of the applicant and intervenor on the ballot the Board granted certification for road drivers, including drivers of leased equipment other than the owner-drivers, and other classifications, working in and out of Edmonton and Calgary, Alta.	A. H. Brown, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard.	Nil.
7-66-1645	(1) Overnite Express Limited (2) Association of Quebec Employees of Overnite Express Limited (3) Teamsters Local 106	Fragmentation of an existing unit was not an issue, but the appropriateness of a unit confined to Quebec employees was challenged by the intervenor. The company claimed that the matter was within provincial jurisdiction.	The Board rejected the application for the reason that it was of opinion that the administration, management and policy of the applicant Association was influenced by the employer so that the fitness of the applicant to represent employees for collective bargaining was impaired; and accordingly the applicant could not be certified under Section 9(6) of the Act.	A. H. Brown, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard.	Nil.
7-66-1650	(1) Overnite Express Limited (2) Association of Ontario Employees of Overnite Express Limited (3) Teamsters Local 938 (Toronto)	Same issues as in Case 7-66-1645, above, as regards a unit confined to Ontario employees.	Same finding as in Case 7-66-1645, above.	A. H. Brown, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard.	Nil.
7-66-1668	(1) C.N.R. (2) Bro. of Locomotive Engineers (3) Bro. of Locomotive Firemen and Enginemen	Debatable. The application covered locomotive engineers employed by the C.N.R. in its Nfld. District; and the existing agreement of the intervenor covered engineers, firemen/helpers, hostlers and hostlers' helpers. The issue of scope was not raised.	The Board rejected the application for the reason that it was not supported by a majority of the employees affected in a representation vote conducted by the Board.	A. H. Brown, A. H. Balch, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard, H. Taylor.	Nil.

- 7-66-1759
- (1) Canadian Broadcasting Corporation
 - (2) Syndicat général du cinéma et de la télévision (CNTU)
 - (3) LATSE
 - (4) Canadian Television Union
 - (5) NABET
 - (6) ARTEC

- 7-66-1779
- (1) C.P.R.
 - (2) Syndicat National des Employés des Usines des Chemins de Fer (CNTU)
 - (3) Railway Employees Department, Div. 4, A.R.C.O. (in its own right and on behalf of seven of its local timekeepers)
 - (4) Shop Employees
 - (5) Bro. of Firemen...Railway Employees
 - (6) BRSC

- 7-66-1790
- (1) C.B.C.
 - (2) Syndicat général du cinéma et de la télévision (CNTU)
 - (3) Canadian Wire Service Guild, Local 213 A.N.G.
 - (4) ARTEC
 - (5) NABET
 - (6) CUPE

Yes. As first filed the applicant applied for production employees of the CBC in its French network. The proposed unit was amended during a hearing before the Board to cover employees in production classifications employed in the Quebec Division of CBC and its International Service. The CBC claimed that the application sought to impose unrealistic boundaries to the representation of the employees in question. The interveners also challenged the scope of the proposed unit as being not appropriate for bargaining.

Yes. The application covered employees of C.P.R. in its Angus Shops, Montreal, in the Company's Motive Power and Rolling Stock Dept. and various clerical and manual employees of the Stores Department at same location. Company and interveners contested appropriateness of proposed unit.

Yes. As first filed, proposed unit comprised employees of CBC who were then (Feb. 23, 1966) represented by the Canadian Wire Service Guild, Local 213 A.N.G., and carrying out their functions in the French network of the CBC. On June 2, 1966, applicant asked leave to amend proposed unit to cover all salaried employees employed by CBC performing duties as writers, national assignment editor, copy clerks, correspondents, reporters, editors, news magazine and camera, employed in the city and region of Montreal; writers and reporters performing duties in Quebec City; and writers, reporters and national affairs reporter performing duties in the city of Ottawa. The incumbent union (Local 213) represented such categories of employees under a system-wide agreement.

On June 9, 1966, the applicant requested a further amendment having the effect of deleting from the proposed unit the writers, reporters and national affairs reporter employed by the CBC and performing their duties in the city of Ottawa.

In Reasons for Judgment the Board pointed out its established policy of not approving fragmentation where collective bargaining exists on a system-wide basis unless strong and compelling reasons are advanced. In this case, and held that it did not consider the applicant put forward convincing evidence of argument to warrant finding that a unit should be created. The Quebec Division of the CBC is appropriate in existing circumstances. The application was rejected accordingly.

Board rejected application considering inter alia (1) a great majority of employees in proposed Angus Shops unit were presently part of established system-wide unit; (2) operations upon which employees are engaged are in an integral and integrated part of the operation of railway system; (3) employees in craft classifications receive craft training under standard system-wide apprenticeship program and share close community of interest and work under substantially uniform wage rates and working conditions; and enjoy benefits of region-wide seniority system; leading Board to conclude that no convincing reason had been advanced to warrant disturbing existing unit. Board did not find it necessary to deal with issue concerning stores employees.

After receiving a further amendment dated July 13, 1966 (requesting leave to withdraw previous amendments, and to cover certain designated categories of employees working in Quebec City and Montreal and area) Board decided it was not prepared to accept this further amendment and, as the applicant was not agreeable to proceeding with its proposed amendment of June 9 on the condition laid down by the Board for acceptance of that amendment, it found that Board would process same as constituting a new application made as of that date. The application Syndicat was given the choice of proceeding with its application as amended on June 2, 1966 or, in the alternative, would be given leave to withdraw the application. The application was withdrawn.

- A. H. Brown,
E. R. Compin,
J. A. D'Aoust,
A. J. Hills,
Donald MacDonald,
G. Picard,
H. Taylor.

- A. H. Brown,
A. H. Balch,
E. R. Compin,
J. A. D'Aoust,
J. Culbault,
A. J. Hills,
Messrs. D'Aoust, G. Picard,
H. Taylor.

- A. H. Brown,
E. R. Compin,
J. A. D'Aoust,
A. J. Hills,
Donald MacDonald,
G. Picard,
H. Taylor.

Mr. Picard concurred in the result (rejection) but issued a separate opinion stating his opinion that the appropriate unit would be a regional unit. Messrs. D'Aoust, Culbault and Taylor did not participate in adoption of Reasons for Judgment.

NIL.

File	(1) Employer (2) Applicant (3) Intervener(s)	Fragmentation Involved	Disposition	Board Members Present	Disent Recorded
7-66-1793	(1) C.P.R. (2) Syndicat National des Employés des Usines des Chemins de Fer (CSN)—Section des Employés de l'entretien (3) Bro. of Maintenance of Way Employees (4) B.R.S.C. (5) Bro. Railway Carmen of America (6) Sheet Metal Workers' Int. Assoc. (7) Bro. of Railroad Signalmen (8) Div. No. 4 Railway Employees Dept.	Yes. The proposed unit comprised all employees working on maintenance of tracks, bridges, buildings and signals, and all carmen employed in the Atlantic Region of the C.P.R. The employees were already represented under system-wide agreements by the Bro. of Maintenance of Way Employees and the Bro. Railway Carmen of America. The respondent and interveners claimed the proposed unit was not appropriate.	The Board granted the applicant permission to withdraw the application.	N/A.	N/A.
7-66-1806	(1) Bristol Aviation Services (2) International Association of Machinists and Aerospace Workers (3) Nil	No. The application covered certain ramp servicing, maintenance and other employees of the respondent employed at Montreal, Malton and Winnipeg airports.	Certification granted for the unit applied for, excluding certain employees at Ottawa airport who had not been organized by the applicant.	A. H. Brown, A. H. Balch, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard, H. Taylor.	Nil
7-66-1826	(1) The Bell Telephone Co. of Canada (2) Office and Professional Employees' International Union (3) Nil	No. There was no collective agreement. The proposed unit comprised directory advertising salesmen and saleswomen employed at Toronto and throughout Ontario. The company contested the appropriateness of the proposed regional unit.	Certification granted for sales personnel as applied for employed by Bell in its Western Region.	A. H. Brown, A. H. Balch, E. R. Compin, J. A. D'Aoust, A. J. Hills, Donald MacDonald, G. Picard, H. Taylor.	Nil.
7-66-1845	(1) C.N.R. (2) National Syndicate of Canadian National Employees (CNTU) (3) Various national and international unions	Yes. The application covered employees represented by a number of unions on a system-wide basis who were employed in a number of shops and stores premises at Pointe St. Charles (Montreal).	Board granted permission to withdraw application.	N/A.	N/A.
7-66-1871	(1) CBC (2) Syndicat général du cinéma et de la télévision (CNTU) (3) Canadian Wire Service Guild, Local 213 ANG (4) ARTEC (5) CUPE	Yes. The proposed unit comprised news writers, reporters, copy clerks and others, employed at the Quebec Administrative Division of the CBC. Already represented under system-wide collective agreement by Local 213.	Board rejected application for the reason that the proposed unit was not appropriate for collective bargaining.	A. H. Brown, A. H. Balch, E. R. Compin, J. A. D'Aoust, J. Guitbault, K. Hallsworth, A. J. Hills, Donald MacDonald	Nil.

7-66-1553

- (1) La Banque Canadienne Nationale
- (2) Syndicat National des Employés de la Banque Canadienne Nationale (CNTU)
- (3) Nil

No. There was no existing agreement. The application covered certain employees engaged in mechanical and clerical operations with regard to bank clearances. The proposed unit was comprised of 116 employees at three locations, and the employer claimed that the clearing process involved 1902 employees at many branches of whom 206 worked full-time and 1696 worked part-time on clearing duties.

7-66-1908

- (1) CBC
- (2) Syndicat général du cinéma et de la télévision (CNTU) (Section Radio-Canada)
- (3) IATSE
- (4) CUPE
- (5) ARTEC

Yes. The application covered 746 production employees of the CBC employed at Montreal and Quebec City out of some 1700 production employees in the system-wide unit for which the Board had already certified IATSE. The CBC did not contest the application but the appropriateness of the proposed unit was contested by the interveners.

Nil.

- A. H. Brown,
- A. H. Balch,
- E. R. Complin,
- J. A. D'Aoust,
- J. Guilbault,
- K. Halsworth,
- A. J. Hills,

The Chairman and Mr. Guilbault dissented.

- A. H. Brown,
- A. H. Balch,
- E. R. Complin,
- J. A. D'Aoust,
- J. Guilbault,
- K. Halsworth,
- A. J. Hills,
- Donald MacDonald.

The Board rejected the application and affirmed that, in dealing with an application embodying a proposal to fragment an existing system-wide bargaining unit, the Board should consider existing grounds, and while new evidence has been brought forward in this case to indicate changed circumstances since the time of the prior application by this applicant, the Board was of opinion that this new evidence was not at the time sufficiently decisive to warrant fragmentation; and held further that the evidence in this case coupled with the result of a vote taken in an application made earlier by CUPE for employees in the entire IATSE unit, the Board was satisfied that IATSE no longer enjoys the support of a majority in such unit and in the circumstances the Board decided to review the original certification, and directed that IATSE be given an opportunity to show cause why an Order of revocation should not be made.

APPENDIX XXI

CANADA LABOUR RELATIONS BOARD

Disposition of

59 "Regional" Cases

- (a) Applications with no Intervener—24 cases:— CLC applications—21; Granted 17; Rejected 0; Withdrawn 4. CNTU applications—1; Rejected 1. Independent applications—2; Granted 1; Rejected 1.

Totals Granted 18

Totals Rejected 2

Totals Withdrawn 4

- (b) CLC vs. CLC—7 cases— (Granted 2, one limited); (Rejected 2); (Withdrew 3).
 (c) CLC vs. CNTU—nil.
 (d) CLC vs. Indep.—1 case (certified)
 (e) CNTU vs. CLC—7 cases (4 rejected; 3 withdrawn).
 (f) CNTU vs. Indep.—2 cases (2 withdrawn).
 (g) Indep. vs. CLC—5 cases (3 rejected; 2 withdrawn).
 (h) Indep. vs. CNTU—nil.
 (i) Indep. vs. Indep.—13 cases—(Granted 6; Rejected 5; Withdrawn 2).

Applications to Fragment Established Units

Total among the tables of 59 applications for "regional" units—14.

Disposition

CLC vs. CLC—4 cases—(1 granted, on limited basis). (1 rejected). (2 withdrawn).

CNTU vs. CLC—7 cases—(nil granted). (4 rejected). (3 withdrawn).

CNTU vs. Indep.—2 cases—(2 withdrawn).

Indep. vs. Indep.—1 case—(1 rejected).

Applications involving "Scope" Issue

Total among tables of 59 applications for "regional" units—

Scope Issue Raised by:

- (a) Company only—9 cases—(4 certification; 1 certification of 2 separate units; 3 rejected; 1 withdrawn).
 (b) Company and Intervener(s)—11 cases—(1 certification; 1 limited certification; 3 rejected; 6 withdrawn).
 (c) Intervener only—5 cases—(1 certification; 1 rejected; 3 withdrawn).

APPENDIX XXII

CANADA LABOUR RELATIONS BOARD

Applications for Certification made by CLC—or CNTU—affiliated organizations wherein such CLC or CNTU affiliates were directly opposed as either applicant or intervener

		Period		Total No. of Such Applications Received
		September 1, 1948 to November 30, 1967		
Disposition		CLC- Affiliated Applicant	CNTU- Affiliated Applicant	
Applications	Granted	4	18	22
Applications	Rejected	15	13	28
Applications	Withdrawn	9	2	11
Total		28	33	61

Notes:

- 1. Figures for CLC-affiliated applicants include unions affiliated prior to May, 1956, with the Trades and Labour Congress of Canada or the Canadian Congress of Labour.
- 2. Figures for CNTU-affiliated applicants include unions affiliated prior to October, 1960, with the Canadian and Catholic Confederation of Labour.
- 3. A study of the reasons for rejection of applications wherein affiliates of the CLC and CNTU were opposed reveals the following totals (analyzed by applicants): lack of majority (CLC-12, CNTU-2); Board's lack of jurisdiction (CLC-1, CNTU-1); out of time (CLC-1, CNTU-1); unit not appropriate (CLC-1, CNTU-0);

Board's decision not to fragment system-wide units (CLC-0, CNTU-4); rejected for the reason that the respondent was not an employer of longshoremen at the particular location in question (CLC-0, CNTU-5).

- 4. Not included in the accompanying table, there have been 14 cases in which a CNTU-affiliated applicant applied for certification and an independent or non-affiliated organization intervened (or vice versa). Of these 14 cases, a CNTU affiliate was the applicant in 11 instances. Of these 11 applications, 8 were granted, 2 were rejected for lack of majority, and 1 was withdrawn. An independent or non-affiliated organization was the applicant in 3 of the 14 cases; each of these applications was rejected.

CANADA LABOUR RELATIONS BOARD
APPLICATIONS FOR CERTIFICATION

Synopsis of applications wherein CLC and CNTU affiliates were opposed September 1, 1948 to November 30, 1967

Affiliation of Applicants	Granted			Rejected			Withdrawn			Total No. of such Applica- tions for the period
	No. of Applica- tions	No hearing No vote	Hearing and Vote	No. of Applica- tions	No hearing No vote	Hearing and Vote	No. of Applica- tions	No hearing No vote	Hearing and Vote	
CLC (1948-1964)	3	2	—	1	1	2	10	9	4	25
CLC (1965-1967)	1	—	—	2	—	1	1	—	—	3
CNTU (1948-1964)	13	1	6	9	—	7	2	—	—	22
CNTU (1965-1967)	5	—	2	4	1	3	—	2	—	11
										61

NOTES:

1. Figures for CLC—affiliated applicants include unions affiliated prior to May, 1965, with the Trades and Labour Congress of Canada or the Canadian Congress of Labour
2. Figures for CNTU—affiliated applicants include unions affiliated prior to October, 1960, with the Canadian and Catholic Confederation of Labour.

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OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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Translated by the General Bureau for Translation, Secretary of State.

ALISTAIR FRASER,
The Clerk of the House.

BINDING SECT. JAN 21 1969

